

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 23, 2007

Assembly called to order at 11:18 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Louie Locke.

Let us pray. Lord, we take a moment this morning to reflect upon Your goodness and blessings in our lives. May we never take You or what comes from Your hand for granted. As Your Word says in the book of Psalms: "We give thanks to You, O God, we give thanks! For Your wondrous works declare that Your Name is near." (Psalm 75:1)

So, we do give You thanks and ask for Your grace and wisdom, to guide in the discussions and decisions made in this body. Bless each of this Assembly, their families, and staff. We pray also for safety and effectiveness for all who serve this nation in the military.

In the Name of the Most High God, I pray.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 101, 115, 161, 238, 365, 375, 383, 393, 424, 440, 478, 496, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which was referred Assembly Bill No. 186, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

JOHN OCEGUERA, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 506, 570, 605, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 384, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, but without recommendation.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 328, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, without recommendation, and rerefer to the Committee on Ways and Means.

ELLEN KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 285, 462, 513, 514, 527, 600, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 255, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 257, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, without recommendation, and rerefer to the Committee on Ways and Means.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 97, 146, 147, 150, 232, 263, 283, 360, 367, 443, 490, 507, 525, 576, 577, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

Madam Speaker:

Your Concurrent Committee on Health and Human Services, to which was referred Assembly Bill No. 168, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 396, 431, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chair*

Madam Speaker:

Your Committee on Select Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 416, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Madam Speaker:

Your Committee on Taxation, to which were referred Assembly Bills Nos. 209, 246, 433, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 39, 278, 311, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 70, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 23, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bill No. 384.

MARK STEVENS
Fiscal Analysis Division

Assemblyman Ocegüera moved that the reading of Histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bills Nos. 39, 97, 101, 115, 146, 147, 150, 161, 168, 209, 232, 238, 255, 257, 263, 278, 283, 285, 311, 360, 365, 367, 375, 383, 384, 393, 396, 416, 431, 433, 440, 443, 461, 462, 490, 496, 507, 513, 514, 525, 527, 570, 576, 577, 600 just reported out committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 39.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 449.

SUMMARY—Revises ~~[provisions relating to the registration of certain heavier motor vehicles.]~~ the definition of “special mobile equipment.” (BDR 43-619)

AN ACT relating to motor vehicles; ~~[requiring the Department of Motor Vehicles to set varying dates of registration of certain vehicles registered by the Motor Carrier Division of the Department and certain heavier vehicles; providing for the payment of fees for registration in installments;]~~ **revising the definition of “special mobile equipment”**; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Sections 1, 2 and 4-6 of this bill authorize the Department of Motor Vehicles to set varying dates for the registration of vehicles which weigh over 26,000 pounds or which otherwise must be registered through the Motor Carrier Division of the Department instead of requiring registration for 12 consecutive months beginning the day after the first registration by the owner. (NRS 371.070, 371.080, 482.206, 706.841) Section 3 of this bill allows the Department to establish by regulation dates for installment payments for the registration of motor vehicles in a fleet instead of requiring payment on dates established by statute. (NRS 482.482) Section 7 of this bill provides that the registration requirements become effective on January 1, 2009.] 1-4 of this bill clarify that concrete pumpers, cranes and drill rigs~~

with highway-rated tires are not considered special mobile equipment in certain circumstances. Sections 1-4 also require the Department of Motor Vehicles to define, by regulation, “incidentally operated or moved upon a highway” for purposes of those sections of NRS that use the phrase in the definition of “special mobile equipment.” (NRS 366.085, 482.123, 484.173, 706.121)

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

Delete existing sections 1 through 7 of this bill and replace with the following new sections 1 through 6:

Section 1. NRS 482.123 is hereby amended to read as follows:

482.123 1. “Special mobile equipment” means every motor vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved upon a highway, including, but not limited to, scoopmobiles, forklifts, ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt graders, bituminous mixers, bucket loaders, tractors other than truck tractors, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and draglines, ~~and self-propelled cranes~~ and earth-moving equipment.

2. “Special mobile equipment” does not include house trailers, dump trucks, truck-mounted transit mixers, concrete pumpers, cranes or drill rigs with highway-rated tires or other vehicles designed for the transportation of persons or property to which machinery has been attached.

3. The Director may make ~~an individual~~ the final determination as to whether ~~any particular vehicle or kind of~~ a vehicle ~~is~~ not specifically ~~listed~~ enumerated in subsection 1 or 2 ~~is~~ falls within this definition.

4. The Department shall, by regulation, define “incidentally operated or moved upon a highway” for purposes of this section.

Sec. 2. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

The Department may adopt regulations relating to the administration and enforcement of provisions in this chapter pertaining to special mobile equipment, as defined in NRS 484.173.

Sec. 3. NRS 484.173 is hereby amended to read as follows:

484.173 1. “Special mobile equipment” means every motor vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved upon a highway, including but not limited to scoopmobiles, forklifts, ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt graders, bituminous mixers, bucket loaders, tractors other than truck-tractors, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and draglines, ~~and self-propelled cranes~~ and earth-moving equipment.

2. "Special mobile equipment" does not include house trailers, dump trucks, truck-mounted transit mixers, ***concrete pumpers, cranes or drill rigs with highway-rated tires*** or other vehicles designed for the transportation of persons or property to which machinery has been attached.

3. The Director may make ~~an individual~~ ***the final*** determination as to whether ~~any particular~~ a vehicle ~~is~~ not specifically enumerated in ~~subsections~~ ***subsection 1 and or 2*** ~~is special mobile equipment as defined in this section.~~ ***falls within this definition.***

4. The Department shall, by regulation, define "incidentally operated or moved upon a highway" for purposes of this section.

Sec. 4. NRS 366.085 is hereby amended to read as follows:

366.085 ***1.*** "Special mobile equipment" means ~~an~~ ***every motor*** vehicle not designed or used primarily for the transportation of persons or property, and only incidentally operated or moved upon a highway. The term includes scoopmobiles, forklifts, ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery, such as asphalt graders, bituminous mixers, bucket loaders, tractors other than truck tractors; leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels, ~~and~~ ***and*** draglines ~~and self-propelled cranes,~~ and earth-moving equipment.

2. "Special mobile equipment" does not include house trailers, dump trucks, truck-mounted transit mixers, ***concrete pumpers, cranes or drill rigs with highway-rated tires*** or other vehicles designed for the transportation of persons or property to which machinery has been attached.

3. The Director of the Department may make the final determination as to whether a vehicle not specifically enumerated in subsection 1 or 2 falls within this definition.

Sec. 5. NRS 706.121 is hereby amended to read as follows:

706.121 ***1.*** "Special mobile equipment" means every ***motor*** vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved upon a highway, including but not limited to scoopmobiles, forklifts, ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt graders, bituminous mixers, bucket loaders, tractors other than truck tractors, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and draglines, ~~and self-propelled cranes,~~ and earth-moving equipment.

2. "Special mobile equipment" does not include house trailers, dump trucks, truck-mounted transit mixers, ***concrete pumpers, cranes or drill rigs with highway-rated tires*** or other vehicles designed for the transportation of persons or property to which machinery has been attached.

3. The Director of the Department may make the final determination as to whether a vehicle not specifically enumerated in subsection 1 or 2 falls within this definition.

4. The Department shall, by regulation, define “incidentally operated or moved upon a highway” for purposes of this section.

Sec. 6. This act becomes effective on July 1, 2007.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 97.

Bill read second time.

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

Amendment No. 509.

AN ACT relating to health care; revising provisions governing contracts between certain insurers and hospitals that are located in certain counties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill prohibits a hospital that is located in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) **or any other person or entity on behalf of such a hospital** and a health insurance company, self-insured employer, association of self-insured public or private employers or a private carrier from entering into a contract for the provision of health care to insureds or employees if the contract prohibits the insurer from contracting with other hospitals which are located in that county ~~or~~ **or from entering into such a contract with any of those insurers if the insurer has entered into a separate contract or is bound by a separate contract which has the effect of preventing the insurer from contracting with such other hospitals.** This prohibition applies only to contracts that are executed or renewed on and after the effective date of the bill.

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 a new section to read as follows:

1. A hospital that is located in a county whose population is 100,000 or more but less than 400,000 or other person or entity on behalf of such a hospital shall not ~~enter~~ :

(a) Enter into a contract for the provision of health care to insureds or employees, as applicable, with a health insurance company, a self-insured employer, an association of self-insured public or private employers or a private carrier if the contract prohibits the health insurance company, self-insured employer, association or private carrier from contracting with other hospitals which are located in that county ~~or~~ ; or

(b) Enter into a contract described in paragraph (a) with a health insurance company, a self-insured employer, an association of self-insured public or private employers or a private carrier which has entered into a

separate contract or which is bound by a separate contract that has the effect of preventing it from contracting with other hospitals which are located in that county.

2. As used in this section:

(a) "Association of self-insured private employers" has the meaning ascribed to it in NRS 616A.050.

(b) "Association of self-insured public employers" has the meaning ascribed to it in NRS 616A.055.

(c) "Health insurance company" has the meaning ascribed to it in section 4 of this bill.

(d) "Private carrier" has the meaning ascribed to it in NRS 616A.290.

(e) "Self-insured employer" has the meaning ascribed to it in NRS 616A.305.

Sec. 2. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A self-insured employer, an association of self-insured public or private employers or a private carrier shall not enter into a contract for the provision of health care to employees with ~~fee~~ :

(a) A hospital that is located in a county whose population is 100,000 or more but less than 400,000 ; or

(b) Another person or entity on behalf of such a hospital.

↪ if the contract prohibits the self-insured employer, association or private carrier from contracting with other hospitals which are located in that county.

2. As used in this section, "hospital" has the meaning ascribed to it in NRS 449.012.

Sec. 3. NRS 616B.527 is hereby amended to read as follows:

616B.527 1. A self-insured employer, an association of self-insured public or private employers or a private carrier may:

(a) Except as otherwise provided in NRS 616B.5273, enter into a contract or contracts with one or more organizations for managed care to provide comprehensive medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(b) ~~Enter~~ Except as otherwise provided in section 2 of this act, enter into a contract or contracts with providers of health care, including, without limitation, physicians who provide primary care, specialists, pharmacies, physical therapists, radiologists, nurses, diagnostic facilities, laboratories, hospitals and facilities that provide treatment to outpatients, to provide medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(c) Require employees to obtain medical and health care services for their industrial injuries from those organizations and persons with whom the self-insured employer, association or private carrier has contracted pursuant to

paragraphs (a) and (b), or as the self-insured employer, association or private carrier otherwise prescribes.

(d) Except as otherwise provided in subsection 3 of NRS 616C.090, require employees to obtain the approval of the self-insured employer, association or private carrier before obtaining medical and health care services for their industrial injuries from a provider of health care who has not been previously approved by the self-insured employer, association or private carrier.

2. An organization for managed care with whom a self-insured employer, association of self-insured public or private employers or a private carrier has contracted pursuant to this section shall comply with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

Sec. 4. Chapter 679A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health insurance company shall not enter into a contract for the provision of health care to insureds with ~~the~~ ;

(a) A hospital that is located in a county whose population is 100,000 or more but less than 400,000 ; or

(b) Another person or entity on behalf of such a hospital.

↪ if the contract prohibits the health insurance company from contracting with other hospitals which are located in that county.

2. As used in this section:

(a) "Health insurance company" means any person authorized pursuant to this title to provide or arrange for the provision of a plan of health insurance or health benefits, including, without limitation, an insurer, a producer of insurance, a managing general agent, a third-party administrator, an organization composed of or using preferred providers of health care, a health maintenance organization, a carrier serving small employers, a fraternal benefit society, a hospital, medical or dental service corporation, a plan for dental care or a prepaid limited health service organization.

(b) "Hospital" has the meaning ascribed to it in NRS 449.012.

Sec. 5. The provisions of this act do not apply to contracts that are executed or renewed before the effective date of this act.

Sec. 6. This act becomes effective upon passage and approval.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 101.

Bill read second time.

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

Amendment No. 440.

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 ~~11~~ 2 of this bill **reduces the number of ex officio 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 ~~three~~ ex officio nonvoting members of the Commission voting members.

Section ~~2~~ 3 of this bill increases the number of members of the Commission required to constitute a quorum from four members to ~~seven~~ six members as a result of the increased number of voting members on the Commission. (NRS 231.180)

Section ~~3~~ 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.

~~Section 1.~~ **Sec. 2.** NRS 231.170 is hereby amended to read as follows:

231.170 1. The Commission on Tourism is composed of ~~the~~ ~~12~~ **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. 2.}~~ **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}~~ ~~{Seven}~~ **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. 3.}~~ **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. 4.}~~ *Sec. 13.* This act becomes effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 115.

Bill read second time.

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

Amendment No. 530.

SUMMARY—Enacts provisions governing mines . ~~[with the potential to emit mercury.]~~ (BDR 46-858)

AN ACT relating to mines; making various changes governing the regulation of mines ; ~~[with the potential to emit mercury.]~~ requiring the State Environmental Commission to ~~[raise additional revenue from fees charged for operating permits issued to certain mine operators to pay for certain projects relating to mercury emissions; providing penalties.]~~ **adopt regulations prescribing a fee for operators of mines with the potential to emit mercury;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Administrator of the Division of Industrial Relations of the Department of Business and Industry is authorized to adopt regulations for mine health and safety. (NRS 512.131) Section 1 of this bill requires the Administrator to adopt regulations ~~[establishing a program for the protection of workers in mines with the potential to emit mercury.]~~

~~Under existing law, the State Department of Conservation and Natural Resources is designated as the Air Pollution Control Agency for Nevada. (NRS 445B.205) The State Environmental Commission is authorized to adopt regulations to prevent, abate and control air pollution. (NRS 445B.210) "Air pollution" is defined as the presence of one or more air contaminants in the outdoor atmosphere that tend to injure human health or property, limit visibility or interfere with the enjoyment of life or property. (NRS 445B.115) An air contaminant is any substance discharged into the atmosphere other than water vapor and water droplets. (NRS 445B.110) The emission of mercury into the atmosphere qualifies as an air contaminant. Section 9 of this bill requires a mine operator who is operating a mine that has the potential to emit mercury to monitor and measure mercury emissions from the mine and to make certain reports of mercury emissions to the Department. The Director of the Department will determine which mines have the potential to emit mercury. Section 10 of this bill requires the Department to conduct unannounced visits to mines that have the potential to emit mercury and to measure and make public the quality of ambient air at the mine. Section 11 of this bill requires the Department to impose a limit on mercury emissions for mines with the potential to emit mercury and reduce, to the greatest extent practicable, current levels of mercury emissions by at least 25 percent on or before January 1, 2012.]~~ **as necessary to provide safe and healthful working conditions at mines.**

Under existing law, the **State Environmental** Commission is required to adopt regulations that require a person operating or responsible for the existence of a source of air contaminant to apply for and obtain an operating permit ~~[. (NRS 445B.300) The Commission is also required to adopt regulations that]~~ **and to** charge appropriate fees for an operating permit. (NRS 445B.300) Section ~~[12]~~ **2** of this bill requires the Commission to ~~[raise an additional \$500,000 in revenue from annual fees charged to mine]~~ **adopt**

regulations prescribing a fee for operators of mines ~~[that have]~~ with the potential to emit mercury ~~[for operating permits]~~, which must be in addition to the fee for an operating permit. The additional ~~[\$500,000 in]~~ revenue will be used by the ~~[Chairman of the Commission]~~ **State Department of Conservation and Natural Resources** to pay for ~~[research projects relating to mercury emissions and for projects]~~ **employees** that will monitor ~~[the presence of mercury in ambient air, fish and water.]~~ **compliance with the Nevada Mercury Air Emissions Control Program.** (NRS 445B.210, 445B.300; NAC 445B.3611-445B.3689)

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

Section 1. NRS 512.131 is hereby amended to read as follows:

512.131 1. The Administrator ~~+~~

~~(a) Except as otherwise provided in paragraph (b), may adopt any]~~ **shall adopt** regulations for mine health and safety ~~[he deems necessary and which are consistent with]~~ **as necessary to provide safe and healthful working conditions at mines. The regulations must provide protection that is at least equal to the protection provided by** the Federal Mine Safety and Health Act, ~~[30 U.S.C. §§ 801 et seq. ,]~~ as amended.

~~(b) Shall adopt regulations establishing a program for the protection of workers in mines with the potential to emit mercury. The regulations must include, without limitation, provisions that require an operator to:~~

~~(1) Submit urine samples to a laboratory each month, for each worker who may receive exposure to mercury, to be tested for levels of mercury;~~

~~(2) Each month, test the quality of the ambient air in and around the mine by measuring the presence of elemental mercury; and~~

~~(3) Submit the results of each test to the Administrator.]~~ **The administrator may consider the following sources in adopting the regulations:**

(a) Common practices of the mining industry;

(b) The American National Standards Institute;

(c) The American Society of Mechanical Engineers;

(d) The American Society for Testing and Materials International;

(e) Applicable provisions contained in the Code of Federal Regulations;

(f) The National Fire Protection Association, including, without limitation, the National Electrical Code;

(g) Any national consensus standard; and

(h) Any safety order legally adopted by the Administrator.

2. The Administrator shall forward a copy of ~~[every]~~ **each** regulation adopted under this section to the operator of each mine and to the representative of the workers, if any, at the mine. Failure to receive a copy of the regulation does not relieve anyone of the obligation to comply with it.

~~3. As used in this section, "mine with the potential to emit mercury" has the meaning ascribed to it in section 6 of this act.]~~

Sec. 2. Chapter 445B of NRS is hereby amended by adding thereto ~~the provisions set forth as sections 3 to 12, inclusive, of this act.~~ a new section to read as follows:

1. In addition to the fees for an operating permit, the Commission shall adopt regulations prescribing the appropriate fee to be imposed on the operator of a mine with the potential to emit mercury, and the schedule for payment of the fee. The Commission shall ensure that the fees imposed pursuant to this subsection are in an amount sufficient to pay the cost of employing two full-time employees of the Department whose employment responsibilities include ensuring compliance with a program to control mercury emissions adopted pursuant to NRS 445B.100 to 445B.640, inclusive, and any regulations adopted thereto. The Department shall advise the Commission in prescribing an appropriate fee pursuant to this subsection.

2. Each operator of a mine with the potential to emit mercury shall pay the fee prescribed by the Commission in accordance with the schedule prescribed by the Commission.

3. As used in this section, "mine with the potential to emit mercury" means a mine that, as determined by the Director, has the potential to emit mercury.

Sec. 3. ~~["Elemental mercury" means mercury in a liquid state.]~~
(Deleted by amendment.)

Sec. 4. ~~["Mine" has the meaning ascribed to it in NRS 512.006.]~~
(Deleted by amendment.)

Sec. 5. ~~["Mine operator" has the meaning ascribed to the term "operator" in NRS 512.007.]~~ (Deleted by amendment.)

Sec. 6. ~~["Mine with the potential to emit mercury" means a mine that, as determined by the Director, has the potential to emit mercury.]~~ (Deleted by amendment.)

Sec. 7. ~~["Precious metals mining" means the mining of gold or silver ore by the owner or operator of a stationary source that belongs to Industry Group 104, Gold and Silver Ores, of Major Group 10, Metal Mining, of the Standard Industrial Classification Manual, 1987 edition, which is published by the United States Office of Management and Budget.]~~ (Deleted by amendment.)

Sec. 8. ~~["Thermal unit" means an emission unit which:~~

~~1. Is located at a stationary source that conducts precious metals mining; and~~

~~2. Uses direct or indirect sources of heat energy.]~~ (Deleted by amendment.)

Sec. 9. ~~[A mine operator of a mine with the potential to emit mercury shall:~~

~~1. Monitor and submit a report to the Department setting forth:~~

~~(a) On a quarterly basis, all emissions of elemental mercury at the mine, if any; and~~

~~(b) On an annual basis, all emissions of total mercury at the mine, if any, including, without limitation, elemental, oxidized and particulate bound mercury.~~

~~2. Immediately report to the Department all deviations in performance, resulting in increased emissions of mercury, of the technologies that have been implemented at the mine to control mercury emissions.~~

~~3. Establish at least two sites for the mine at which the quality of ambient air must be measured by monitoring the presence of elemental mercury. The measurements must be taken at least once each month. The monitoring sites must be located in areas of the mine where concentrations of elemental mercury are expected to be the highest and located in proximity to and generally downwind of a thermal unit that emits mercury or an operating heap. The mine operator shall collect and submit the measurements to the Department on a quarterly basis together with a report documenting each thermal unit in operation at the time the measurements were taken.] (Deleted by amendment.)~~

~~Sec. 10. [At least twice each year, the Department shall conduct unannounced visits to each mine with the potential to emit mercury and measure the quality of ambient air at the mine. The measurements must be maintained at the Department and made available to the public by posting the measurements to the website of the Department.] (Deleted by amendment.)~~

~~Sec. 11. [The Department shall impose a limit on mercury emissions for mines with the potential to emit mercury based on the total amount of mercury emissions from those mines measured for the year 2005. The amount of the limitation must be determined by the Department. The Department shall, to the greatest extent practicable, ensure that mercury emissions from those mines are reduced by not less than 25 percent on or before January 1, 2012, with a reduction of not less than 4 percent in mercury emissions each year. If, during a year, a 4 percent reduction in mercury emissions is not obtained, the Department shall conduct discussions with mine operators and determine the manner in which the 4 percent minimum reduction may be obtained for the following year.] (Deleted by amendment.)~~

~~Sec. 12. [Each year, the Commission shall increase the total amount of fees charged to mine operators for operating permits by an amount that is equal to \$500,000 for that year. Each year, the additional \$500,000 must be accounted for separately in the State General Fund and may only be used by the Commission to pay for:~~

~~1. Projects to monitor the presence of mercury in ambient air, fish and water; and~~

~~2. Research concerning the health effects and control of mercury emissions from mining.] (Deleted by amendment.)~~

Sec. 13. 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, ~~and *sections 3 to 12, inclusive,*~~ ***section 2 of this act*** 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, ~~and *sections 3 to 12, inclusive,*~~ ***section 2 of this act*** 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, ~~and *sections 3 to 12, inclusive,*~~ ***section 2 of this act*** 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 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.

Sec. 14. NRS 445B.105 is hereby amended to read as follows:

445B.105 As used in NRS 445B.100 to 445B.640, inclusive, ~~and *sections 3 to 12, inclusive,*~~ ***section 2 of this act***, unless the context otherwise requires, the words and terms defined in NRS 445B.110 to 445B.155, inclusive, ~~*and sections 3 to 8, inclusive, of this act*~~ have the meanings ascribed to them in those sections.

Sec. 15. ~~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 3 to 12, 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 3 to 12, 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.} (Deleted by amendment.)~~

Sec. 16. ~~[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 3 to 12, inclusive, of this act, the Commission, in addition to any other action which may be necessary or appropriate to carry out such 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.} (Deleted by amendment.)~~

Sec. 17. ~~[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 3 to 12, 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 3 to 12, 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 3 to 12, 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 3 to 12, 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 3 to 12, 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. (Deleted by amendment.)~~

Sec. 18. ~~[NRS 445B.235 is hereby amended to read as follows:~~

~~445B.235 In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, the Department may : [.] if it considers it necessary or appropriate:]~~

~~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. On behalf of this State, apply for and receive funds 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. 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 a facility is constructed and operated in accordance with the application for certification.~~

~~4. Develop measures for control of air pollution originating in the State. (Deleted by amendment.)~~

Sec. 19. ~~[NRS 445B.240 is hereby amended to read as follows:~~

~~445B.240 1. Any [duly] authorized officer, employee or representative of the Department may enter and inspect any property, premises or place on or at which an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with NRS 445B.100 to 445B.640, inclusive, and~~

~~sections 3 to 12, inclusive, of this act and rules and regulations in force pursuant thereto.~~

~~2.— No person [shall:] may:~~

~~(a) Refuse entry or access to any authorized representative of the Department who requests entry for purposes of inspection, as provided in this section, and who presents appropriate credentials.~~

~~(b) Obstruct, hamper or interfere with any such inspection.~~

~~3.— If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.]~~

(Deleted by amendment.)

Sec. 20. ~~[NRS 445B.300 is hereby amended to read as follows:~~

~~445B.300 — 1. The Commission shall by regulation:~~

~~(a) Require the person operating or responsible for the existence of each source of air contaminant, generally or within a specified class or classes, to apply for and obtain an operating permit for the source.~~

~~(b) Require that written notice be given to the Director before the construction, installation, alteration or establishment of any source of air contaminant or of any specified class or classes of such sources, or the alteration of any device intended primarily to prevent or reduce air pollution. If, within the time prescribed by regulation, the Director determines that:~~

~~(1) The proposed construction, installation, alteration or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted under NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act or applicable regulations; or~~

~~(2) The design material or the construction itself is of such a nature that it patently cannot bring such a source into compliance with NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act or applicable regulations;~~

~~the Director shall issue an order prohibiting the construction, installation, alteration or establishment of the source or sources of air contaminant.~~

~~2.— The Commission shall by regulation provide for:~~

~~(a) The issuance, renewal, modification, revocation and suspension of operating permits, and charge appropriate fees for their issuance in an amount sufficient to pay the expenses of administering NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act and any regulations adopted pursuant to those sections.~~

~~(b) The issuance of authorizations for the issuance of building permits pursuant to paragraph (a) of subsection 2 of NRS 445B.320.~~

~~3.— Any failure of the Commission or the Department to issue a regulation or order to prohibit any act does not relieve the person so operating from any legal responsibility for the construction, operation or existence of the source of air contaminant.~~

~~4.— All administrative fees collected by the Commission pursuant to subsection 2 must be [accounted for separately and] deposited in the State~~

~~General Fund for credit to the Account for the Management of Air Quality. This subsection does not apply to any fees collected by political subdivisions or their agencies.] (Deleted by amendment.)~~

Sec. 21. ~~[NRS 445B.330 is hereby amended to read as follows:~~

~~445B.330 When the Department takes any regulatory action, under the provisions of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, or under any rule, regulation, order or standard based thereon, it shall give reasonable notice to all parties by certified mail, which notice [shall] *must* state the legal authority, jurisdiction and reasons for the action taken.] (Deleted by amendment.)~~

Sec. 22. ~~[NRS 445B.460 is hereby amended to read as follows:~~

~~445B.460 1. If, in the judgment of the Director, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, or any rule, regulation, order or operating permit issued pursuant to NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, the Director may request that the Attorney General apply to the district court for an order enjoining the act or practice, or for an order directing compliance with any provision of NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, or any rule, regulation, order or operating permit issued pursuant to NRS 445B.100 to 445B.640, inclusive [.] , and sections 3 to 12, inclusive, of this act.~~

~~2. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in or is about to engage in such an act or practice, the control officer may request that the district attorney of the county in which the act or practice is being engaged in or is about to be engaged in apply to the district court for such an order.~~

~~3. Upon a showing by the Director or the control officer that a person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order may be granted by the court.] (Deleted by amendment.)~~

Sec. 23. ~~[NRS 445B.470 is hereby amended to read as follows:~~

~~445B.470 1. A person shall not knowingly:~~

~~(a) Violate any applicable provision, the terms or conditions of any permit or any provision for the filing of information;~~

~~(b) Fail to pay any fee;~~

~~(c) Falsify any material statement, representation or certification in any notice or report; or~~

~~(d) Render inaccurate any monitoring device or method,~~

~~as required pursuant to the provisions of NRS 445B.100 to 445B.450, inclusive, or 445B.470 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act or any regulation adopted pursuant to those provisions.~~

~~2. Any person who violates any provision of subsection 1 shall be punished by a fine of not more than \$10,000 for each day of the violation.~~

~~3.— The burden of proof and degree of knowledge required to establish a violation of subsection 1 are the same as those required by 42 U.S.C. § 7413(e), as that section existed on October 1, 1993.~~

~~4.— If, in the judgment of the Director [of the Department] or his designee, any person is engaged in any act or practice which constitutes a criminal offense pursuant to NRS 445B.100 to 445B.640, inclusive, and sections 3 to 12, inclusive, of this act, the Director [of the Department] or his designee may request that the Attorney General or the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.~~

~~5.— If, in the judgment of the control officer of a local air pollution control board, any person is engaged in such an act or practice, the control officer may request that the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.~~ (Deleted by amendment.)

Sec. 24. [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] Except as otherwise provided in subsection 3, 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 3 to 12, 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 3 to 12, inclusive, of this act.~~

~~3.— Money in the Account must not be expended for any project or research for which money is available pursuant to section 12 of this act.~~

~~4.— 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.] (Deleted by amendment.)~~

Sec. 25. ~~[NRS 445B.600 is hereby amended to read as follows:~~

~~445B.600 The provisions of NRS 445B.100 to 445B.595, inclusive, [does] and sections 3 to 12, inclusive, of this act do 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.] (Deleted by amendment.)~~

Sec. 26. ~~[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 3 to 12, 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 3 to 12, 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 3 to 12, 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 3 to 12, 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.] (Deleted by amendment.)~~

Sec. 27. ~~[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 3 to 12, 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.] (Deleted by amendment.)~~

Sec. 28. The Administrator of the Division of Industrial Relations of the Department of Business and Industry shall, on or before June 30, 2009, review the regulations adopted pursuant to NRS 512.131 and revise those regulations to ensure the regulations comply with the amendatory provisions of section 1 of this act.

Sec. 29. The State Environmental Commission shall adopt the regulations required pursuant to section 2 of this act on or before December 31, 2007.

~~*Sec. 28.*~~ *Sec. 30.* This act becomes effective upon passage and approval. ~~[for the purpose of adopting regulations necessary to carry out the provisions of this act, and on January 1, 2008, for all other purposes.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 146.

Bill read second time.

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

Amendment No. 508.

AN ACT relating to health care; requiring the Department of Health and Human Services to establish a program to increase public awareness of health care information concerning the hospitals in this State; requiring the Department to establish and maintain an Internet website which provides certain information concerning the charges imposed and the quality of health care provided by the hospitals in this State; requiring hospitals to submit certain information to the Department for the program; **requiring similar information to be submitted by surgical centers for ambulatory patients; requiring that the information submitted by surgical centers for ambulatory patients be posted on the Internet website established and maintained by the Department under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the planning for health care in this State, including the promotion of equal access to quality health care at a reasonable cost. (Chapter 439A of NRS) Section 3 of this bill requires the Department of Health and Human Services to establish a program to increase public awareness of health care information concerning the hospitals in this State. The program must include the provision of information concerning the charges imposed and the quality of services provided by the hospitals in this State. Sections 4 and 5 of this bill require the hospitals in this State to submit the information for the program and require the Department to collect and maintain that information. Section 6 of this bill requires the Department to establish and maintain an Internet website which provides information to the

general public concerning the charges imposed and the quality of services provided by the hospitals in this State.

Under existing law, the Director of the Office for Consumer Health Assistance maintains an Internet website which includes certain information concerning prescription drug programs and pharmacies. (NRS 223.560) Section ~~14~~ **14** of this bill requires the Director to include on the website a link to the website maintained by the Department of Health and Human Services to provide information to the general public concerning the charges imposed and the quality of services provided by the hospitals in this State.

Section 16 of this bill requires the Department to collect and maintain similar information relating to surgical centers for ambulatory patients. Section 16 also requires the Department to reconcile the data submitted from surgical centers for ambulatory patients with the information submitted by hospitals to ensure that a consumer is able to reasonably compare the two types of medical facility. Section 16 further requires the Department to post this information if the Department is able to adequately reconcile the data submitted.

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

Section 1. Chapter 439A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, ~~“program” means the program that is established by the Department pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.~~ the words and terms defined in sections 2.3 and 2.7 of this act have the meanings ascribed to them in those sections.*

Sec. 2.3. “Hospital” has the meaning ascribed to it in NRS 449.012.

Sec. 2.7. “Program” means the program that is established by the Department pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.

Sec. 3. *1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.*

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) The charges imposed on inpatients by each hospital in this State ~~including, without limitation, the information contained in the uniform list of billed charges maintained pursuant to NRS 439B.400 and the summary of charges for common services prepared pursuant to NRS 449.243;~~ as reported in the forms submitted pursuant to NRS 449.485;

~~(b) The charges imposed on outpatients by each hospital in this State ~~for~~ as reported in the forms submitted pursuant to NRS 449.485;~~

~~(c) The quality of care provided by each hospital in this State ~~for the most common medical diagnoses and procedures,~~ as determined by applying uniform measures of quality ~~including, without limitation, the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum and the Joint Commission on Accreditation of Healthcare Organizations,~~ prescribed by the Department pursuant to section 4 of this act;~~

~~(d) How consistently each hospital ~~in this State~~ follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;~~

~~(e) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most common medical diagnoses and treatments of inpatients and the 50 most common medical diagnoses and treatments of outpatients; and~~

~~(f) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State that the Department determines is useful to consumers.~~

Sec. 4. 1. The Department shall, by regulation:

~~1. (a) Prescribe the information that each hospital in this State must submit to the Department for the program as set forth in section 3 of this act ~~which may include charges imposed by the hospitals and measures of quality for hospitals that are in addition to those prescribed in subsection 2 of section 3 of this act; and~~~~

~~2. (b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph (c) of subsection 2 of section 3 of this act. In adopting the regulations, the Department shall:~~

~~(1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum and the Joint Commission;~~

~~(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and~~

~~(3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.~~

~~(c) Require each hospital to:~~

~~(a) (1) Provide the information prescribed in ~~subsection 1~~ paragraphs (a) and (b) in the format required by the Department; and~~

~~(b) (2) Report the information separately for inpatients and outpatients.~~

2. If a hospital fails to submit the information required pursuant to this section or section 3 of this act or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.

Sec. 5. 1. *The Department shall collect and maintain all information that it receives from the hospitals in this State pursuant to ~~section~~ sections 3 and 4 of this act. Upon request, the Department shall make the information available in printed form or an electronic format, as indicated by the requester, to:*

- (a) *Consumers of health care;*
- (b) *Providers of health care;*
- (c) *Representatives of the health insurance industry; and*
- (d) *The general public.*

2. *The Department shall ensure that the information it provides pursuant to this section is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital.*

Sec. 6. 1. *The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals in this State as required by the program ~~pursuant to section 3 of this act.~~ The information must be presented in a manner that:*

(a) *Allows a person to view and compare the information for the hospitals by:*

- (1) *Geographic location of each hospital;*
- (2) *Type of medical diagnosis; and*
- (3) *Type of medical ~~procedure;~~ treatment;*

(b) *Allows a person to view and compare the information separately for the inpatients and outpatients of each hospital; and*

(c) *Is readily accessible and understandable by a member of the general public.*

2. *The Department shall:*

(a) *Publicize the availability of the Internet website;*

(b) *Update the information contained on the Internet website at least quarterly;*

(c) *Ensure that the information contained on the Internet website is accurate and reliable;*

(d) *Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;*

(e) *Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital; and*

(f) *Upon request, make the information that is contained on the Internet website available in printed form.*

Sec. 7. *In carrying out the provisions of sections 2 to 7, inclusive, of this act, the Department may contract with the Nevada System of Higher Education or any appropriate, independent and qualified person or entity to analyze the information collected and maintained by the Department pursuant to sections 2 to 7, inclusive, of this act. Such a contractor shall not release or publish or otherwise use any information made available to it pursuant to the contract except as required to carry out the provisions of sections 2 to 7, inclusive, of this act.*

Sec. 8. NRS 439A.020 is hereby amended to read as follows:

439A.020 The purposes of this chapter are to:

1. Promote equal access to quality health care at a reasonable cost;
 2. Promote an adequate supply and distribution of health resources;
 3. Promote uniform, effective methods of delivering health care;
 4. Promote and encourage the adequate distribution of health and care facilities and man power;
 5. Promote and encourage the effective use of methods for controlling increases in the cost of health care;
 6. Encourage participation in health planning by members of the several health professions, representatives of institutions and agencies interested in the provision of health care and the reduction of the cost of such care, and the general public;
 7. Utilize the viewpoint of the general public for making decisions;
 8. *Provide information to the general public concerning the charges imposed and the quality of the services provided by the hospitals in this State;*
 9. Encourage public education regarding proper personal health care and methods for the effective use of available health services; and
- ~~{9.}~~ 10. Promote a program of technical assistance to purchasers to contain effectively the cost of health care, including:
- (a) Providing information to purchasers regarding the charges made by practitioners.
 - (b) Training purchasers to negotiate successfully for a policy of health insurance.
 - (c) Conducting studies and providing other information about measures to assist purchasers in containing the cost of health care.

Sec. 9. ~~NRS 439B.400 is hereby amended to read as follows:~~

~~439B.400 1. Each hospital in this State shall maintain and use a uniform list of billed charges for that hospital for units of service or goods provided to all inpatients. A hospital may not use a billed charge for an inpatient that is different than the billed charge used for another inpatient for the same service or goods provided. This section does not restrict the ability of a hospital or other person to negotiate a discounted rate from the hospital's billed charges or to contract for a different rate or mechanism for payment of the hospital.~~

~~2.— Each hospital in this State shall submit to the Department the uniform list of billed charges for the program established by the Department pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.} (Deleted by amendment.)~~

Sec. 10. ~~{NRS 449.243 is hereby amended to read as follows:~~

~~449.243 Every hospital licensed pursuant to the provisions of NRS 449.001 to 449.240, inclusive:~~

~~1.— May, except as otherwise provided in subsection 2, utilize the Uniform Billing and Claims Forms established by the American Hospital Association.~~

~~2.— Shall, except as otherwise provided in this section, on its billings to patients, itemize, on a daily basis, all charges for services, and charges for equipment used and the supplies and medicines provided incident to the provision of those services with specificity and in language that is understandable to an ordinary lay person. This itemized list must be timely provided after the patient is discharged at no additional cost.~~

~~3.— Except as otherwise provided in this subsection, if a patient is charged a rate, pursuant to a contract or other agreement, that is different than the billed charges, [the hospital] shall provide to the patient either:~~

~~(a) A copy of the billing prepared pursuant to subsection 2;~~

~~(b) A statement specifying the agreed rate for the services; or~~

~~(c) If the patient is not obligated to pay any portion of the bill, a statement of the total charges.~~

~~4.— In any case, the hospital shall include on the billing or statement any copayment or deductible for which the patient is responsible. The hospital shall answer any questions regarding the bill.~~

~~4.— If the hospital is paid by the insurer of a patient a rate that is based on the number of persons treated and not on the services actually rendered, [the hospital] shall, upon the discharge of the patient, advise the patient of the status of any copayment or deductible for which the patient is responsible.~~

~~5.— Shall prepare a summary of charges for common services for patients admitted to the hospital and make it available to the public. The summary must be submitted to the Department of Health and Human Services for the program established by the Department pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.~~

~~6.— Shall provide to any patient upon request a copy of the billing prepared pursuant to subsection 2.} (Deleted by amendment.)~~

Sec. 11. NRS 449.485 is hereby amended to read as follows:

449.485 1. Each hospital in this State shall use for all patients discharged the form commonly referred to as the "UB-82," or a different form prescribed by the Director with the approval of a majority of the hospitals licensed in this State, and shall include in the form all information required by the Department.

2. ~~{The Department shall by regulation:~~

~~(a) Specify.] Each hospital shall, on a monthly basis, report to the Department the information required to be included in the form for each patient. ~~]~~ and~~

~~(b) Require each hospital to provide specified information from the form to the Department.]~~

3. Each insurance company or other payer shall accept the form as the bill for services provided by hospitals in this State.

4. Except as otherwise provided in subsection 5, each hospital with 100 or more beds shall provide the information required pursuant to paragraph (b) of subsection 2 on magnetic tape or by other means specified by the Department, or shall provide copies of the forms and pay the costs of entering the information manually from the copies.

5. The Director may exempt a hospital from the requirements of subsection 4 if requiring the hospital to comply with the requirements would cause the hospital financial hardship.

6. The Department shall use the information submitted pursuant to this section for the program established pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State.

Sec. 12. NRS 449.490 is hereby amended to read as follows:

449.490 1. Every institution which is subject to the provisions of NRS 449.450 to 449.530, inclusive, shall file with the Department the following financial statements or reports in a form and at intervals specified by the Director but at least annually:

(a) A balance sheet detailing the assets, liabilities and net worth of the institution for its fiscal year; and

(b) A statement of income and expenses for the fiscal year.

2. Each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually, a capital improvement report which includes, without limitation, any major service line that the hospital has added or is in the process of adding since the previous report was filed, any major expansion of the existing facilities of the hospital that has been completed or is in the process of being completed since the previous report was filed, and any major piece of equipment that the hospital has acquired or is in the process of acquiring since the previous report was filed.

3. In addition to the information required to be filed pursuant to subsections 1 and 2, each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually:

(a) The corporate home office allocation methodology of the hospital, if any.

(b) The expenses that the hospital has incurred for providing community benefits and the in-kind services that the hospital has provided to the community in which it is located. For the purposes of this paragraph,

“community benefits” includes, without limitation, goods, services and resources provided by a hospital to a community to address the specific needs and concerns of that community, services provided by a hospital to the uninsured and underserved persons in that community, training programs for employees in a community and health care services provided in areas of a community that have a critical shortage of such services, for which the hospital does not receive full reimbursement.

(c) A statement of its policies and procedures for providing discounted services to, or reducing charges for services provided to, persons without health insurance that are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260.

(d) A statement of its policies regarding patients’ account receivables, including, without limitation, the manner in which a hospital collects or makes payment arrangements for patients’ account receivables, the factors that initiate collections and the method by which unpaid account receivables are collected.

4. A complete current charge master must be available at each hospital during normal business hours for review by the Director, any payor that has a contract with the hospital to pay for services provided by the hospital, any payor that has received a bill from the hospital and any state agency that is authorized to review such information. **The complete and current charge master must be made available to the Department, at the request of the Director, in an electronic format specified by the Department. The Department may use the electronic copy of the charge master to review and analyze the data contained in the charge master and, except as otherwise provided in sections 2 to 7, inclusive, of this act, shall not release or publish the information contained in the charge master.**

5. The Director shall require the certification of specified financial reports by an independent certified public accountant and may require attestations from responsible officers of the institution that the reports are, to the best of their knowledge and belief, accurate and complete to the extent that the certifications and attestations are not required by federal law.

6. The Director shall require the filing of all reports by specified dates, and may adopt regulations which assess penalties for failure to file as required, but he shall not require the submission of a final annual report sooner than 6 months after the close of the fiscal year, and may grant extensions to institutions which can show that the required information is not available on the required reporting date.

7. All reports, except privileged medical information, filed under any provisions of NRS 449.450 to 449.530, inclusive, are open to public inspection and must be available for examination at the office of the Department during regular business hours.

~~[Sec. 11.]~~ **Sec. 13.** NRS 449.520 is hereby amended to read as follows:

449.520 1. On or before October 1 of each year, the Director shall prepare and transmit to the Governor, the Legislative Committee on Health Care and the Interim Finance Committee a report of the Department's operations and activities for the preceding fiscal year.

2. The report prepared pursuant to subsection 1 must include:

(a) Copies of all summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive, together with such facts, suggestions and policy recommendations as the Director deems necessary;

(b) A summary of the trends of the audits of hospitals in this State that the Department required or performed during the previous year;

(c) An analysis of the trends in the costs, expenses and profits of hospitals in this State;

(d) An analysis of the corporate home office allocation methodologies of hospitals in this State;

(e) An examination and analysis of the manner in which hospitals are reporting the information that is required to be filed pursuant to NRS 449.490, including, without limitation, an examination and analysis of whether that information is being reported in a standard and consistent manner, which fairly reflect the operations of each hospital;

(f) A review and comparison of the policies and procedures used by hospitals in this State to provide discounted services to, and to reduce charges for services provided to, persons without health insurance; ~~and~~

(g) A review and comparison of the policies and procedures used by hospitals in this State to collect unpaid charges for services provided by the hospitals ~~};~~ *and*

(h) A summary of the status of the program that is established pursuant to section 3 of this act to increase public awareness of health care information concerning the hospitals in this State, including, without limitation, the information that was posted in the preceding fiscal year on the Internet website maintained for that program pursuant to section 6 of this act.

3. The Legislative Committee on Health Care shall develop a comprehensive plan concerning the provision of health care in this State which includes, without limitation:

(a) A review of the health care needs in this State as identified by state agencies, local governments, providers of health care and the general public; and

(b) A review of the capital improvement reports submitted by hospitals pursuant to subsection 2 of NRS 449.490.

~~[Sec. 12.]~~ **Sec. 14.** NRS 223.560 is hereby amended to read as follows:

223.560 The Director shall:

1. Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

2. Assist consumers and injured employees in understanding their rights and responsibilities under health care plans and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; and

9. Establish and maintain an Internet website which includes:

(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; ~~and~~

(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328 ~~and~~; *and*

(c) *A link to the website established and maintained pursuant to section 6 of this act which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals in this State.*

Sec. 15. 1. Each hospital in this State shall, on July 1, 2007, begin submitting to the Department of Health and Human Services the information concerning inpatient data required pursuant to sections 2 to 7, inclusive, of this act.

2. The Department shall review the data concerning inpatients submitted by each hospital in this State and, on or before January 1,

2008, begin posting such information on the Internet website established pursuant to section 6 of this act.

3. Each hospital in this State shall, on January 1, 2008, begin submitting to the Department the information concerning outpatient data that is required pursuant to sections 2 to 7, inclusive, of this act.

4. The Department shall review the data concerning outpatients submitted by each hospital in this State and, on or before January 1, 2009, begin posting such information on the Internet website established pursuant to section 6 of this act.

Sec. 16. 1. Each surgical center for ambulatory patients shall, on January 1, 2008, and on a monthly basis thereafter, begin submitting to the Department of Health and Human Services all information required by the Department pursuant to this section.

2. The Department shall determine how best to reconcile the information submitted pursuant to this section with the information required from the hospitals in this State pursuant to sections 2 to 7, inclusive, of this act so that the information may be posted on the Internet website established pursuant to section 6 of this act in a manner which allows a consumer to reasonably compare the charges imposed and the quality of services provided by the surgical centers for ambulatory patients and the hospitals in this State.

3. The Department shall, on or before December 1, 2008, report to the Legislative Committee on Health Care concerning the activities of the Department pursuant to this section, including, without limitation, a report on whether the Department was able to adequately reconcile the information submitted pursuant to this section with the information submitted pursuant to sections 2 to 7, inclusive, of this act. If the Department submits to the Legislative Committee on Health Care a report that the information collected pursuant to this section is not ready for posting on the Internet website or that the information cannot be adequately reconciled with the information submitted by the hospitals, the Legislative Committee on Health Care may extend the deadline by which the information must be posted pursuant to subsection 4.

4. Except as otherwise provided in subsection 3, the Department shall, on January 1, 2009, begin posting the information received pursuant to this section on the Internet website established pursuant to section 6 of this act.

5. The Department shall adopt regulations prescribing:

(a) The surgical centers for ambulatory patients in this State which must report information pursuant to this section.

(b) The information concerning the charges imposed and the quality of services provided by the surgical centers for ambulatory patients that must be submitted pursuant to this section, which must be similar to the information submitted by the hospitals pursuant to sections 2 to 7, inclusive, of this act.

Sec. 17. In addition to any other report required pursuant to this act or a state law, the Department of Health and Human Services shall submit to the Legislative Committee on Health Care, on or before the first day of each month, a report which includes:

1. The status of the collection of data pursuant to sections 2 to 7, inclusive, and section 16 of this act;
2. The status of the establishment of an Internet website pursuant to section 6 of this act;
3. Any regulations adopted pursuant to sections 4 and 16 of this act; and
4. Any other information related to carrying out the provisions of this act.

Sec. 18. The Department of Health and Human Services shall not send to the Health Division of the Department a notice required pursuant to subsection 2 of section 4 of this act until:

1. July 1, 2008, if the notice concerns the submission of information relating to inpatients; and
2. January 1, 2009, if the notice concerns the submission of information relating to outpatients.

Sec. 19. This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 147.

Bill read second time.

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

Amendment No. 220.

AN ACT relating to the protection of children; prohibiting a person who takes a child ~~[who is under the age of 6 years]~~ into protective custody from placing the child in ~~[certain group shelters];~~ **a child care institution under certain circumstances;** requiring a court to establish a plan with an agency which provides child welfare services for the transfer of a child ~~[who is under the age of 6 years and]~~ who has been placed in a ~~[group shelter]~~ **child care institution** to another placement ~~[;]~~ **under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a child to be removed from his home and placed into protective custody in certain circumstances. When the child is removed, he may be placed in a hospital or a shelter, which may include a foster home or other home or facility. (NRS 432B.390) Section 1 of this bill provides that a child placed in protective custody who is under the age of ~~6~~ **3** years may not be placed in a ~~[group shelter which provides care and supervision to more than 16 children.]~~ **child care institution unless appropriate foster care is**

unavailable in the county in which the child resides, the child requires medical services that cannot be provided at any other placement or it is necessary to avoid separating siblings. Section 6 of this bill amends section 1 to provide that on and after January 1, 2009, this prohibition applies to any child under the age of 6 years. Sections 3 and 4 of this bill further require the court to establish whether a child under the age of ~~6~~ 3 years has been placed in such a ~~[group home]~~ child care institution in violation of statute and, if so, to prepare a plan with the agency which provides child welfare services to have the child moved to a different placement. (NRS 432B.480, 432B.510) Section 1 also requires the Director of the Department of Health and Human Services to submit an annual report to the Legislature concerning any child under the age of ~~6~~ 3 years who was placed in a ~~[group shelter]~~ child care institution during the previous 12 months. Section 6 of this bill amends section 1 to provide that the report applies to children under the age of 6 years.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employee of an agency which provides child welfare services or its designee, an agent or officer of a law enforcement agency, an officer of a local juvenile probation department or the local department of juvenile services or any other person who places a child in protective custody pursuant to this chapter :

(a) Except as otherwise provided in subsection 2, shall not transfer a child who is under the age of ~~6~~ 3 years to, or place such a child in, a ~~[group shelter]~~ child care institution unless appropriate foster care is not available at the time of placement in the county in which the child resides; and

(b) Shall make all reasonable efforts to place siblings in the same location.

2. A child under the age of 3 years may be placed in a child care institution:

(a) If the child requires medical services and such medical services could not be provided at any other placement; or

(b) If necessary to avoid separating siblings.

3. If a child is transferred to or placed in a ~~[group shelter]~~ child care institution in violation of subsection 1, the agency which provides child welfare services that is responsible for the child shall immediately notify the Director of the Department of Health and Human Services and shall move the child to another placement as soon as possible.

~~4.~~ *4. The Director of the Department shall, on or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a written report concerning any child under*

the age of ~~16~~ 3 years who was placed in a ~~group shelter~~ child care institution during the previous 12 months. Such a report must include, without limitation:

(a) An explanation of the situation that required the transfer of the child to or placement of the child in a ~~group shelter~~ child care institution;

(b) A summary of any actions that were taken to ensure the health, welfare and safety of the child; and

(c) The length of time that the child was required to remain in the ~~group shelter~~ child care institution.

↪ *The Director of the Legislative Counsel Bureau shall cause such report to be made available to each Senator and Assemblyman.*

~~4.4~~ 5. As used in this section, ~~“group shelter” means~~ “child care institution”:

(a) Means any type of home or facility that ~~provides~~ :

(1) Provides care and shelter during the day and night to 16 or more children who are in protective custody of an agency which provides child welfare services ~~and~~ ;or

(2) Provides care and shelter during the day and night, through the use of caregivers who work in shifts, to children who are in protective custody of an agency which provides child welfare services.

(b) Does not include a home or facility that provides medical services to children.

Sec. 2. NRS 432B.390 is hereby amended to read as follows:

432B.390 1. An agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the local department of juvenile services, or a designee of an agency which provides child welfare services:

(a) May place a child in protective custody without the consent of the person responsible for the child’s welfare if he has reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect.

(b) Shall place a child in protective custody upon the death of a parent of the child, without the consent of the person responsible for the welfare of the child, if the agent, officer or designee has reasonable cause to believe that the death of the parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018.

2. When an agency which provides child welfare services receives a report pursuant to subsection 2 of NRS 432B.630, a designee of the agency which provides child welfare services shall immediately place the child in protective custody.

3. If there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, a protective custody hearing must be held pursuant to NRS 432B.470, whether the child was placed in protective custody or with a relative. If an agency other than an agency which

provides child welfare services becomes aware that there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, that agency shall immediately notify the agency which provides child welfare services and a protective custody hearing must be scheduled.

4. An agency which provides child welfare services shall request the assistance of a law enforcement agency in the removal of a child if the agency has reasonable cause to believe that the child or the person placing the child in protective custody may be threatened with harm.

5. Before taking a child for placement in protective custody, the person taking the child shall show his identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child shall show his identification to any other person upon request. The identification required by this subsection must be a single card that contains a photograph of the person taking the child and identifies him as a person authorized pursuant to this section to place a child in protective custody.

6. A child placed in protective custody pending an investigation and a hearing held pursuant to NRS 432B.470 must be placed in a hospital, if the child needs hospitalization, or in a shelter, which may include , *without limitation*, a foster home or other home or facility which provides care for those children, ~~but the~~ *except as otherwise provided in section 1 of this act.* **Such a** child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.

7. A person placing a child in protective custody pursuant to subsection 1 shall:

(a) Immediately take steps to protect all other children remaining in the home or facility, if necessary;

(b) Immediately make a reasonable effort to inform the person responsible for the child's welfare that the child has been placed in protective custody;

(c) Give preference in placement of the child to any person related within the third degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State; and

(d) As soon as practicable, inform the agency which provides child welfare services and the appropriate law enforcement agency ~~+~~, *except that if the placement violates the provisions of section 1 of this act, the person shall immediately provide such notification.*

8. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

Sec. 3. NRS 432B.480 is hereby amended to read as follows:

432B.480 1. At each hearing conducted pursuant to NRS 432B.470:

(a) At the commencement of the hearing, the court shall advise the parties of their right to be represented by an attorney and of their right to present evidence.

(b) The court shall determine whether there is reasonable cause to believe that it would be:

- (1) Contrary to the welfare of the child for him to reside at his home; or
- (2) In the best interests of the child to place him outside of his home.

↪ The court shall prepare an explicit statement of the facts upon which each of its determinations is based. If the court makes an affirmative finding regarding either subparagraph (1) or (2), the court shall issue an order keeping the child in protective custody pending a disposition by the court.

(c) ~~If the child is under the age of 6 years, the~~ ***The court shall determine whether the child has been placed in a home or facility that complies with the requirements of section 1 of this act. If the placement does not comply with the requirements of section 1 of this act, the court shall establish a plan with the agency which provides child welfare services for the prompt transfer of the child into a home or facility that complies with the requirements of section 1 of this act.***

2. If the court issues an order keeping the child in protective custody pending a disposition by the court and it is in the best interests of the child, the court may:

(a) Place the child in the temporary custody of a grandparent, great-grandparent or other person related within the third degree of consanguinity to the child who the court finds has established a meaningful relationship with the child, with or without supervision upon such conditions as the court prescribes, regardless of whether the relative resides within this State; or

(b) Grant the grandparent, great-grandparent or other person related within the third degree of consanguinity to the child a reasonable right to visit the child while he is in protective custody.

3. If the court finds that the best interests of the child do not require that the child remain in protective custody, the court shall order his immediate release.

4. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

Sec. 4. NRS 432B.510 is hereby amended to read as follows:

432B.510 1. A petition alleging that a child is in need of protection may be signed only by:

- (a) A representative of an agency which provides child welfare services;
- (b) A law enforcement officer or probation officer; or
- (c) The district attorney.

2. The district attorney shall countersign every petition alleging need of protection, and shall represent the interests of the public in all proceedings. If the district attorney fails or refuses to countersign the petition, the petitioner may seek a review by the Attorney General. If the Attorney General

determines that a petition should be filed, he shall countersign the petition and shall represent the interests of the public in all subsequent proceedings.

3. Every petition must be entitled [] “In the Matter of, a child,” and must be verified by the person who signs it.

4. Every petition must set forth specifically:

(a) The facts which bring the child within the jurisdiction of the court as indicated in NRS 432B.410.

(b) The name, date of birth and address of the residence of the child.

(c) The names and addresses of the residences of his parents and any other person responsible for the child’s welfare, and spouse if any. If his parents or other person responsible for his welfare do not reside in this State or cannot be found within the State, or if their addresses are unknown, the petition must state the name of any known adult relative residing within the State [] or , if there is none, the known adult relative residing nearest to the court.

(d) Whether the child is in protective custody [] and , if so []:

(1) *The* agency responsible for placing the child in protective custody and the reasons therefor [] ; *and*

(2) *Whether the child has been placed in a home or facility in compliance with the provisions of section 1 of this act. If the placement does not comply with the provisions of section 1 of this act, the petition must include a plan for transferring the child to a placement which complies with the provisions of section 1 of this act.*

5. When any of the facts required by subsection 4 are not known, the petition must so state.

Sec. 5. NRS 432B.540 is hereby amended to read as follows:

432B.540 1. If the court finds that the allegations of the petition are true, it shall order that a report be made in writing by an agency which provides child welfare services, concerning:

(a) Except as otherwise provided in paragraph (b), the conditions in the child’s place of residence, the child’s record in school, the mental, physical and social background of his family, its financial situation and other matters relevant to the case; or

(b) If the child was delivered to a provider of emergency services pursuant to NRS 432B.630, any matters relevant to the case.

2. If the agency believes that it is necessary to remove the child from the physical custody of his parents, it must submit with the report a plan designed to achieve a placement of the child in a safe setting as near to the residence of his parent as is consistent with the best interests and special needs of the child. The plan must include [] , *without limitation:*

(a) A description of the type, safety and appropriateness of the home or institution in which the child could be placed, *including, without limitation, ~~if the child is under the age of 6 years,~~ a statement that the home or institution would comply with the provisions of section 1 of this act, and* a plan for ensuring that he would receive safe and proper care and a description of his needs;

(b) A description of the services to be provided to the child and to a parent to facilitate the return of the child to the custody of his parent or to ensure his permanent placement;

(c) The appropriateness of the services to be provided under the plan; and

(d) A description of how the order of the court will be carried out.

Sec. 6. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employee of an agency which provides child welfare services or its designee, an agent or officer of a law enforcement agency, an officer of a local juvenile probation department or the local department of juvenile services or any other person who places a child in protective custody pursuant to this chapter:

(a) Except as otherwise provided in subsection 2, shall not transfer a child who is under the age of ~~13~~ 6 years to, or place such a child in, a child care institution unless appropriate foster care is not available at the time of placement in the county in which the child resides; and

(b) Shall make all reasonable efforts to place siblings in the same location.

2. A child under the age of ~~13~~ 6 years may be placed in a child care institution:

(a) If the child requires medical services and such medical services could not be provided at any other placement; or

(b) If necessary to avoid separating siblings.

3. If a child is transferred to or placed in a child care institution in violation of subsection 1, the agency which provides child welfare services that is responsible for the child shall immediately notify the Director of the Department of Health and Human Services and shall move the child to another placement as soon as possible.

4. The Director of the Department shall, on or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a written report concerning any child under the age of ~~13~~ 6 years who was placed in a child care institution during the previous 12 months. Such a report must include, without limitation:

(a) An explanation of the situation that required the transfer of the child to or placement of the child in a child care institution;

(b) A summary of any actions that were taken to ensure the health, welfare and safety of the child; and

(c) The length of time that the child was required to remain in the child care institution.

↪ The Director of the Legislative Counsel Bureau shall cause such report to be made available to each Senator and Assemblyman.

5. As used in this section, "child care institution":

(a) Means any type of home or facility that:

(1) Provides care and shelter during the day and night to 16 or more children who are in protective custody of an agency which provides child welfare services; or

(2) Provides care and shelter during the day and night, through the use of caregivers who work in shifts, to children who are in protective custody of an agency which provides child welfare services.

(b) Does not include a home or facility that provides medical services to children.

~~{Sec. 6.}~~ **Sec. 7.** 1. As soon as possible, but not later than ~~{2 weeks after the effective date of this act,}~~ **January 15, 2008**, an agency which provides child welfare services shall determine whether any children for whom the agency is responsible ~~{is}~~ **are** in the custody of a ~~{group shelter}~~ **child care institution** in violation of the provisions of section 1 of this act and shall establish a plan for the transfer of any such children into a home or facility that complies with the provisions of section 1 of this act. The agency shall provide the Director of the Department of Health and Human Services with a list of any such children and the plans for their transfer.

2. As soon as possible, but not later than January 15, 2009, an agency which provides child welfare services shall determine whether any children for whom the agency is responsible are in the custody of a child care institution in violation of the provisions of section 6 of this act and shall establish a plan for the transfer of any such children into a home or facility that complies with the provisions of section 6 of this act. The agency shall provide the Director of the Department of Health and Human Services with a list of any such children and the plans for their transfer.

~~{Sec. 7.}~~ **Sec. 8.** 1. This section and sections 1 to 5, inclusive, and 7 of this act ~~{becomes}~~ **become** effective on ~~{July 1, 2007,}~~ **January 1, 2008.**

2. Section 1 of this act expires by limitation on December 31, 2008.

3. Section 6 of this act becomes effective on January 1, 2009.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 150.

Bill read second time.

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

Amendment No. 481.

AN ACT relating to controlled substances; ~~{requiring the State Board of Pharmacy to classify certain precursors to methamphetamine as controlled substances which must not be dispensed by a pharmacy without a prescription,}~~ requiring the Office of Court Administrator to apply for federal grants for drug courts; making various other changes pertaining to crimes related to the use or manufacturing of methamphetamine and other controlled

substances; revising various provisions pertaining to nuisances; making various changes relating to lithium metal, sodium metal and anhydrous ammonia; **enacting provisions relating to the sale or transfer of certain precursors to methamphetamine**; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes pertaining to methamphetamine and other controlled substances.

~~Existing law allows the State Board of Pharmacy to adopt regulations that add or delete substances from the schedules of controlled substances. (NRS 453.146) The Board has designated ephedrine, pseudoephedrine and phenylpropanolamine as controlled substances included on schedule III, but has excluded such substances if they are sold over the counter in packages containing not more than 3 grams of the substances. (NAC 453.530) Sections 4-6 of this bill require the Board to classify all ephedrine, pseudoephedrine and phenylpropanolamine as controlled substances included on schedule III and provide that these substances may not be dispensed without a prescription. (NRS 453.256)~~

Section 40 of this bill prohibits a person from: (1) selling or transferring in the course of business a product that is a precursor to methamphetamine; or (2) engaging in the business of selling at retail a product that is a precursor to methamphetamine, unless the person is a pharmacy or the holder of a permit which allows the person to sell or transfer products that are precursors to methamphetamine. A person who violates these prohibitions is guilty of a category C felony. To obtain a permit to sell or transfer products that are precursors to methamphetamine, a person must submit an application to the State Board of Pharmacy and pay a fee of \$200. The Board must issue a permit to a person if the Board determines, after considering certain factors, that the person will safely and lawfully sell products that are precursors to methamphetamine.

Section 41 of this bill requires a pharmacy or the holder of a permit to: (1) comply with state and federal law concerning the sale and transfer of products that are precursors to methamphetamine; and (2) submit to the Department of Public Safety a quarterly report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine. If a pharmacy or permit holder does not comply with either of these requirements, section 45 allows the State Board of Pharmacy to take certain disciplinary action against the pharmacy or permit holder.

Section 2 of this bill prohibits the possession or disposition of chemical waste or debris resulting from the manufacture of methamphetamine. Section 3 of this bill prohibits the possession of lithium metal or sodium metal under certain circumstances.

Existing law prohibits a person from possessing certain chemicals with the intent to manufacture or compound a controlled substance other than marijuana. (NRS 453.322) Section 7 of this bill adds lithium metal and sodium metal to the list of prohibited chemicals. Section 7 also prohibits a person from providing such a chemical to another person with the intent that it be used in the manufacturing or compounding of a controlled substance other than marijuana.

Existing law creates the Office of Court Administrator and prescribes the duties of the Court Administrator. (NRS 1.320, 1.360) Section 9 of this bill requires the Court Administrator to apply for any federal grants for the establishment, support or expansion of drug courts and to allocate to the courts any money received.

Existing law provides that a building or place used to unlawfully manufacture a controlled substance is a nuisance, which creates civil liability, and a public nuisance, which is punishable criminally. (NRS 40.140, 202.450, 202.470) Sections 10 and 11 of this bill provide that a building or place that was used to unlawfully manufacture a controlled substance is both a nuisance and a public nuisance if certain activities relating to the decontamination of the building or place have not occurred within a certain period.

Section 12 of this bill provides that a person commits first degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages a dwelling house or personal property that is occupied by one or more persons. Section 13 of this bill provides that a person commits second degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages any abandoned building or structure. Section 14 of this bill provides that a person is guilty of a category B felony if the person commits the theft of certain chemicals that are precursors to controlled substances, regardless of the value of those chemicals.

Sections 21-32 of this bill require the State Department of Agriculture, in consultation with the Department of Public Safety, to certify substances that are added to anhydrous ammonia for the purpose of rendering the anhydrous ammonia unusable or undesirable for the manufacture of methamphetamine. To assist in advising the State Department of Agriculture on the certification of such substances, sections 32 and 33 of this bill create the Anhydrous Ammonia Advisory Committee.

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as section 2 and 3 of this act.

Sec. 2. **1. *Except as otherwise provided in subsection 2, a person who knowingly possesses or disposes of methamphetamine manufacturing***

waste is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. A person does not violate subsection 1 if the person:

(a) Possesses or disposes of the methamphetamine manufacturing waste pursuant to state or federal laws regulating the storage, cleanup or disposal of waste products from unlawful methamphetamine manufacturing;

(b) Has notified a law enforcement agency of the existence of the methamphetamine manufacturing waste; or

(c) Possesses or disposes of methamphetamine manufacturing waste that had previously been disposed of by another person on the person's property in violation of subsection 1.

3. As used in this section:

(a) "Disposes of" means to discharge, deposit, inject, spill, leak or place methamphetamine manufacturing waste into or onto land or water.

(b) "Methamphetamine manufacturing waste" means chemical waste or debris, used in or resulting from:

(1) The manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(2) The grinding, soaking or otherwise breaking down of a substance that is a precursor for the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.

Sec. 3. 1. Except as otherwise provided in this subsection, it is unlawful for a person to knowingly or intentionally possess lithium metal or sodium metal. A person does not violate this subsection if the person:

(a) Is conducting a lawful manufacturing operation that involves the use of lithium metal or sodium metal;

(b) Possesses lithium metal or sodium metal in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:

(1) Regularly established public or private secondary school; or

(2) Public or private institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education;

(c) Is a retail distributor, wholesaler, manufacturer, warehouseman or common carrier, or an agent of any of those persons, who possesses lithium metal or sodium metal in the regular course of lawful business activities; or

(d) Possesses lithium metal or sodium metal as a component of a commercially produced product, including, without limitation, rechargeable batteries.

2. A person who violates this section is guilty of a gross misdemeanor.

Sec. 4. ~~NRS 453.146 is hereby amended to read as follows:~~

~~453.146 1. The Board shall administer the provisions of NRS 453.011 to 453.552, inclusive, and may add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation.~~

~~2. In making a determination regarding a substance, the Board shall consider the following:~~

- ~~(a) The actual or relative potential for abuse;~~
- ~~(b) The scientific evidence of its pharmacological effect, if known;~~
- ~~(c) The state of current scientific knowledge regarding the substance;~~
- ~~(d) The history and current pattern of abuse;~~
- ~~(e) The scope, duration and significance of abuse;~~
- ~~(f) The risk to the public health;~~
- ~~(g) The potential of the substance to produce psychic or physiological dependence liability; and~~
- ~~(h) Whether the substance is an immediate precursor of a controlled substance.~~

~~3. The Board may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.~~

~~4. After considering the factors enumerated in subsection 2, the Board shall make findings with respect thereto and adopt a regulation controlling the substance if it finds the substance has a potential for abuse.~~

~~5. The Board shall designate as a controlled substance a steroid or other product which is used to enhance athletic performance, muscle mass, strength or weight without medical necessity. The Board may not designate as a controlled substance an anabolic steroid which is:~~

- ~~(a) Expressly intended to be administered through an implant to cattle, poultry or other animals; and~~
- ~~(b) Approved by the Food and Drug Administration for such use.~~

~~6. Except as otherwise provided in subsection 7, the Board shall designate as a controlled substance included in schedule III, regardless of the amount thereof:~~

- ~~(a) Ephedrine, its optical isomers, salts and salts of optical isomers;~~
- ~~(b) Pseudoephedrine, its optical isomers, salts and salts of optical isomers; and~~
- ~~(c) Phenylpropanolamine, its optical isomers, salts and salts of optical isomers.~~

~~7. The Board may exempt a product that contains a substance described in subsection 6 from regulation as a controlled substance if:~~

- ~~(a) The manufacturer of the product applies to the Board for an exemption; and~~
- ~~(b) The Board finds that the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors.~~

~~8. Upon notification from the Department of Public Safety that the Department has probable cause to believe that a product described in this subsection does not effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors, the Board may issue an~~

~~emergency rule revoking the exemption for the product pending a full hearing.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 453.2186 is hereby amended to read as follows:~~

~~453.2186 1. Authority to control pursuant to NRS 453.146, 453.218, 453.2182 and 453.2184 does not extend to distilled spirits, wine, malt beverages or tobacco.~~

~~2. The Board shall not include any nonnarcotic substance on any schedule if that substance is in a form suitable for final dosage and has been approved by the Food and Drug Administration for sale over the counter without a prescription, unless subsection 6 of NRS 453.146 requires the Board to include the substance on a schedule or the Board affirmatively finds that:~~

~~(a) The substance itself or one or more of its active ingredients is an immediate precursor of a controlled substance; and~~

~~(b) The substance is materially misbranded or mislabeled, or the public interest requires the scheduling of the substance as a controlled substance in schedule I, II, III or IV.~~

~~3. In determining whether the public interest requires the scheduling of the substance, the Board shall consider:~~

~~(a) Whether the customary methods of marketing and distributing the substance are likely to lead to its unlawful distribution or use, including any relevant information with regard to a manufacturer or distributor of the substance concerning:~~

~~(1) His record of compliance with applicable federal, state and local statutes, ordinances and regulations;~~

~~(2) His past experience in the manufacture and distribution of controlled substances, and the existence in his establishment of effective controls against the unlawful distribution or use of the substance;~~

~~(3) Whether he has ever been convicted under any federal or state law relating to a controlled substance; and~~

~~(4) Whether he has ever furnished materially falsified or fraudulent material in any application filed pursuant to NRS 453.011 to 453.552, inclusive.~~

~~(b) Whether the substance is controlled under the federal Controlled Substances Act;~~

~~(c) The status of any pending proceeding to determine whether the substance should be controlled or exempted from control;~~

~~(d) Any history of abuse or misuse of the substance in this State; and~~

~~(e) Any other factors which are relevant to the public health and safety.~~

~~4. In determining whether a substance is misbranded or mislabeled, the Board shall consider the requirements of the federal Food, Drug, and Cosmetic Act and the Code of Federal Regulations concerning indications for its use and any advertising for a use not so indicated.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 453.256 is hereby amended to read as follows:~~

~~453.256 1. Except as otherwise provided in subsection 2, a substance included in schedule II must not be dispensed without the written prescription of a practitioner.~~

~~2. A controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only:~~

~~(a) In an emergency, as defined by regulation of the Board, upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy.~~

~~(b) Upon the use of a facsimile machine to transmit the prescription for a substance included in schedule II by a practitioner or a practitioner's agent to a pharmacy for:~~

~~(1) Direct administration to a patient by parenteral solution; or~~

~~(2) A resident of a facility for intermediate care or a facility for skilled nursing which is licensed as such by the Health Division of the Department.~~

~~→ A prescription transmitted by a facsimile machine pursuant to this paragraph must be printed on paper which is capable of being retained for at least 2 years. For the purposes of this section, such a prescription constitutes a written prescription. The pharmacy shall keep prescriptions in conformity with the requirements of NRS 453.246. A prescription for a substance included in schedule II must not be refilled.~~

~~3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III or IV which is a dangerous drug as determined under NRS 454.201 [,] or which is set forth in subsection 6 of NRS 453.146 must not be dispensed without a written or oral prescription of a practitioner. The prescription must not be filled or refilled more than 6 months after the date thereof or be refilled more than five times, unless renewed by the practitioner.~~

~~4. A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.~~

~~5. A practitioner may dispense or deliver a controlled substance to or for a person or animal only for medical treatment or authorized research in the ordinary course of his profession.~~

~~6. No civil or criminal liability or administrative sanction may be imposed on a pharmacist for action taken in good faith in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.~~

~~7. An individual practitioner may not dispense a substance included in schedule II, III or IV for his own personal use except in a medical emergency.~~

~~8. A person who violates this section is guilty of a category E felony and shall be punished as provided in NRS 493.130.~~

~~9. As used in this section:~~

~~(a) "Facsimile machine" means a device which sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.~~

~~(b) "Medical treatment" includes dispensing or administering a narcotic drug for pain, whether or not intractable.~~

~~(c) "Parenteral solution" has the meaning ascribed to it in NRS 639.0105.~~

(Deleted by amendment.)

Sec. 7. NRS 453.322 is hereby amended to read as follows:

453.322 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to knowingly or intentionally:

(a) Manufacture or compound a controlled substance other than marijuana.

(b) Possess, with the intent to manufacture or compound a controlled substance other than marijuana ~~+~~, ***or sell, exchange, barter, supply, prescribe, dispense or give away, with the intent that the chemical be used to manufacture or compound a controlled substance other than marijuana:***

(1) Any chemical identified in subsection 4; or

(2) Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance other than marijuana. The district attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection 4, is commonly used in manufacturing or compounding such a controlled substance.

↪ The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in NRS 453.3385 or 453.3395, 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 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000.

3. The court shall not grant probation to a person convicted pursuant to this section.

4. The following chemicals are identified for the purposes of subsection 1:

(a) Acetic anhydride.

(b) Acetone.

(c) N-Acetylanthranilic acid, its esters and its salts.

(d) Anthranilic acid, its esters and its salts.

(e) Benzaldehyde, its salts, isomers and salts of isomers.

(f) Benzyl chloride.

(g) Benzyl cyanide.

(h) 1,4-Butanediol.

(i) 2-Butanone (or methyl ethyl ketone or MEK).

- (j) Ephedrine, its salts, isomers and salts of isomers.
- (k) Ergonovine and its salts.
- (l) Ergotamine and its salts.
- (m) Ethylamine, its salts, isomers and salts of isomers.
- (n) Ethyl ether.
- (o) Gamma butyrolactone.
- (p) Hydriodic acid, its salts, isomers and salts of isomers.
- (q) Hydrochloric gas.
- (r) Iodine.
- (s) Isosafrole, its salts, isomers and salts of isomers.
- (t) **Lithium metal.**
- (u) Methylamine, its salts, isomers and salts of isomers.
- ~~{(u)}~~ (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- ~~{(v)}~~ (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- ~~{(w)}~~ (x) Methyl isobutyl ketone (MIBK).
- ~~{(x)}~~ (y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(y)}~~ (z) Nitroethane, its salts, isomers and salts of isomers.
- ~~{(z)}~~ (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(aa)}~~ (bb) Phenylacetic acid, its esters and its salts.
- ~~{(bb)}~~ (cc) Phenylpropanolamine, its salts, isomers and salts of isomers.
- ~~{(cc)}~~ (dd) Piperidine and its salts.
- ~~{(dd)}~~ (ee) Piperonal, its salts, isomers and salts of isomers.
- ~~{(ee)}~~ (ff) Potassium permanganate.
- ~~{(ff)}~~ (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- ~~{(gg)}~~ (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(hh)}~~ (ii) Red phosphorous.
- ~~{(ii)}~~ (jj) Safrole, its salts, isomers and salts of isomers.
- ~~{(jj)}~~ (kk) **Sodium metal.**
- (ll) Sulfuric acid.
- ~~{(kk)}~~ (mm) Toluene.

Sec. 8. NRS 453.553 is hereby amended to read as follows:

453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, **and sections 2 and 3 of this act**, any person who unlawfully sells, manufactures, delivers or brings into this State, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction.

2. As used in ~~{this section and}~~ NRS ~~{453.5531, 453.5532 and}~~ **453.553 to 453.5533** ~~{,}~~, **inclusive:**

(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.

(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

Sec. 9. NRS 1.360 is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;

9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;

10. On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

11. On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:

(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) Such other related information as the Court Administrator deems appropriate;

12. On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;

13. On or before February 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018; ~~and~~

14. *Apply for and accept any money appropriated and made available by any act of Congress for the establishment, support or expansion of specialty court programs that facilitate the testing, treatment and oversight of persons who abuse alcohol or drugs;*

15. *Allocate the money received pursuant to subsection 14 to courts to assist with the establishment, support or expansion of specialty court programs that facilitate the testing, treatment and oversight of persons who abuse alcohol or drugs; and*

16. Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.

Sec. 10. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section ~~[, anything]~~ :

(a) **Anything** which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ~~[, including, without limitation, a]~~ ;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~[as defined in NRS 453.086]~~ or controlled substance analog ~~[as defined in NRS 453.043]~~ ; or

(c) *A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:*

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog,

↪ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section [~~“shooting”~~]:

(a) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043;

(b) “Immediate precursor” has the meaning ascribed to it in NRS 453.086; and

(c) “Shooting range” means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 11. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor ~~as defined in NRS 453.086~~ or controlled substance analog ~~as defined in NRS 453.043~~ is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) Where vagrants resort,

↪ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

↪ is a public nuisance.

4. ***A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:***

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which

does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

~~{5.}~~ 6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

~~{6.}~~ 7. As used in this section ~~{, "shooting"}~~:

(a) *"Controlled substance analog" has the meaning ascribed to it in NRS 453.043;*

(b) *"Immediate precursor" has the meaning ascribed to it in NRS 453.086; and*

(c) *"Shooting range" has the meaning ascribed to it in NRS 40.140.*

Sec. 12. NRS 205.010 is hereby amended to read as follows:

205.010 A person who ~~{willfully}~~:

1. *Willfully* and maliciously sets fire to or burns or causes to be burned ~~{ or who aids,}~~;

2. *Aids*, counsels or procures the burning of ~~{any:~~

~~1. Dwelling}~~; *or*

3. *By knowingly engaging in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine, sets fire to or causes an explosion that damages,*

↪ *any dwelling* house or other structure or mobile home, whether occupied or vacant ~~{ or~~

~~2. Personal}~~ *and whether the property of himself or another, or personal* property which is occupied by one or more persons, ~~{~~

↪} whether the property of himself or of another, is guilty of arson in the first degree which is a category B felony and shall be punished by imprisonment for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$15,000.

Sec. 13. NRS 205.015 is hereby amended to read as follows:

205.015 A person who ~~{willfully}~~:

1. *Willfully* and maliciously sets fire to or burns or causes to be burned ~~{ or who aids,}~~;

2. *Aids*, counsels or procures the burning of ; *or*

3. By knowingly engaging in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine, sets fire to or causes an explosion that damages,

↳ any abandoned building or structure, whether the property of himself or of another, is guilty of arson in the second degree which is 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 may be further punished by a fine of not more than \$10,000.

Sec. 14. NRS 205.0835 is hereby amended to read as follows:

205.0835 1. Unless a greater penalty is imposed by a specific statute, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, shall be punished pursuant to the provisions of this section.

2. ~~¶¶~~ **Except as otherwise provided in subsection 3, if** the value of the property or services involved in the theft ~~is~~ :

(a) **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}~~

(b) **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.}~~ 3. If the value of the property or services involved in the theft is \$2,500 or more ~~{,}~~ **or if the property involved in the theft is a chemical identified in subsection 4 of NRS 453.322,** 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.}~~ 4. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

Sec. 15. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his

property of nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property . ~~{;}~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property . ~~{;}~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS . ~~{; or}~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{as defined in NRS 453.086}~~ or controlled substance analog . ~~{as defined in NRS 453.043.}~~

(5) *When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:*

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

- (1) Criminal activity;*
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;*
- (3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;*
- (4) Excessive noise and violations of curfew; or*
- (5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.*

~~{(e)}~~ *(e) "Person associated with the property" means:*

- (1) The owner of the property;*
 - (2) The manager or assistant manager of the property;*
 - (3) The tenant of the property; or*
 - (4) A person who, on the occasion of a nuisance activity, has:*
 - (I) Entered, patronized or visited;*
 - (II) Attempted to enter, patronize or visit; or*
 - (III) Waited to enter, patronize or visit,*
- ↳ the property or a person present on the property.

Sec. 16. NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~{5}~~ 6 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

Sec. 17. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~{5}~~ 6 of NRS 202.450, determine by ordinance what shall be deemed nuisances.

2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.

3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:

(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.

(b) Be coequal with the latest lien thereon to secure the payment of general taxes.

(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes.

(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

4. Provide any other penalty or punishment of persons responsible for the nuisances.

Sec. 18. NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~{5}~~ 6 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

Sec. 19. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property . ~~{ }~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property . ~~{ }~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS . ~~{ ; or }~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{ as defined in NRS 453.086 }~~ or controlled substance analog . ~~{ as defined in NRS 453.043 . }~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

- (1) Criminal activity;*
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;*
- (3) Excessive noise and violations of curfew; or*
- (4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.*

~~+(e)~~ *(e) "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:*

- (1) Entered, patronized or visited;*
- (2) Attempted to enter, patronize or visit; or*
- (3) Waited to enter, patronize or visit,*

↪ a property or a person present on the property.

Sec. 20. Title 51 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 21 to 33, inclusive, of this act.

Sec. 21. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 22 to 30, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 22. *"Advisory Committee" means the Anhydrous Ammonia Additive Advisory Committee created by section 32 of this act.*

Sec. 23. *"Anhydrous ammonia" means a liquid or gaseous inorganic compound that is formed by the chemical combination of nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. The term does not include ammonium hydroxide.*

Sec. 24. *"Board" means the State Board of Agriculture.*

Sec. 25. *"Department" means the State Department of Agriculture.*

Sec. 26. *"Director" means the Director of the Department.*

Sec. 27. *"Distributor" means a person that imports, consigns, sells, offers for sale, barter, exchanges or otherwise facilitates the supply of anhydrous ammonia to a user in this State.*

Sec. 28. *"Nontoxic dye" means a biodegradable, clear liquid product that causes staining when exposed to air.*

Sec. 29. *"Other additive" means a product other than a nontoxic dye that, when put in tanks containing anhydrous ammonia, renders the*

anhydrous ammonia nonreactive, unusable or undesirable for use in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.

Sec. 30. *"User" means a person that uses anhydrous ammonia in the course of engaging in agricultural activity in this State to promote or stimulate the growth of plants, increase the productiveness of plants, improve the quality of crops or produce any chemical or physical change in the soil.*

Sec. 31. 1. *The Department, in consultation with the Department of Public Safety, shall certify each brand of nontoxic dye or other additive that a distributor of anhydrous ammonia or user may add to anhydrous ammonia.*

2. *The Board, in consultation with the Advisory Committee, shall adopt regulations establishing standards to be used in making certifications pursuant to subsection 1 and for the administration of this chapter.*

Sec. 32. 1. *The Anhydrous Ammonia Additive Advisory Committee is hereby created within the Department.*

2. *The Advisory Committee consists of one representative of each of the following:*

(a) The Department.

(b) The Department of Public Safety.

(c) Manufacturers of anhydrous ammonia fertilizers.

(d) The Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education.

(e) Retail distributors of anhydrous ammonia.

(f) Users who are growers of agricultural products.

3. *The Director, in consultation with the Director of the Department of Public Safety, shall appoint the members of the Advisory Committee.*

4. *After the initial term, each member of the Advisory Committee shall serve for a term of 4 years.*

5. *Each member of the Advisory Committee serves without compensation. If sufficient money is available to the Department, members are entitled to travel allowances provided for state officers and employees generally while attending meetings of the Advisory Committee.*

6. *Each member of the Advisory Committee who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee.*

Sec. 33. *The Advisory Committee:*

1. *May review all relevant scientific and economic data on nontoxic dyes or other additives for anhydrous ammonia that are submitted to the Department for certification.*

2. *Shall require the manufacturer of any nontoxic dye or other additive submitted to the Department for certification to provide sufficient*

scientifically valid data for each submitted nontoxic dye or other additive to allow the Department to determine the:

- (a) Impact of the nontoxic dye or other additive on crop yield;*
- (b) Specific food crop residue analysis of the nontoxic dye or other additive; and*
- (c) Impact of the nontoxic dye or other additive on the environment.*

3. May issue recommendations to the Department regarding whether the Department should certify a nontoxic dye or other additive.

~~Sec. 34. It is an affirmative defense to a charge of violating NRS 453.336 or 453.411 by possessing or using ephedrine, pseudoephedrine, phenylpropanolamine, the optical isomers, salts and salts of optical isomers of those substances or any combination of these substances that the person:~~

~~1. Lawfully obtained possession of the ephedrine, pseudoephedrine, phenylpropanolamine, optical isomers, salts and salts of optical isomers of those substances or any combination of these substances before October 1, 2007;~~

~~2. Possesses not more than 6 grams of ephedrine, pseudoephedrine, phenylpropanolamine, the optical isomers, salts and salts of optical isomers of those substances or any combination of these substances; and~~

~~3. Possesses ephedrine, pseudoephedrine, phenylpropanolamine, the optical isomers, salts and salts of optical isomers of those substances or any combination of these substances under circumstances that are consistent with typical medicinal or household use, as indicated by factors that include, without limitation, storage location, purchase date, possession of the products in a variety of strengths, brands, types or purposes and expiration date.]~~

~~(Deleted by amendment.)~~

Sec. 35. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 42, inclusive, of this act.

Sec. 36. As used in sections 36 to 42, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 37, 38 and 39 of this act have the meanings ascribed to them in those sections.

Sec. 37. "Department" means the Department of Public Safety.

Sec. 38. "Permit" means a permit to sell or transfer a product that is a precursor to methamphetamine issued by the Board pursuant to sections 36 to 42, inclusive, of this act.

Sec. 39. "Product that is a precursor to methamphetamine" means a product which contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.

Sec. 40. 1. A person shall not sell or transfer to an ultimate user in the course of any business, or engage in the business of selling to ultimate users, a product that is a precursor to methamphetamine, unless the person:

(a) Is a pharmacy; or

(b) Holds a valid permit issued by the Board pursuant to this section.

2. A person who violates subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. To obtain or renew a permit, a person must:

(a) Submit an application to the Executive Secretary of the Board on a form furnished by the Board;

(b) Pay the fee required by NRS 639.170; and

(c) Submit any other documentation that the Board may require by regulation.

4. The Board shall issue or renew a permit if the person applying for the permit has complied with subsection 2 and the Board determines that the person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine. To determine whether a person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine, the Board shall consider the following factors:

(a) Whether the business operated by the person contains a pharmacy which is not open to the public at all times.

(b) The proximity of the business operated by the person to a pharmacy that is open to the public at all times.

(c) Whether an owner, partner, member, manager, stockholder who owns more than 10 percent of the outstanding stock, director or officer of the person, or an employee of the person who will sell or transfer a product that is a precursor to methamphetamine, has been arrested for, charged with or convicted of:

(1) A felony;

(2) Any crime involving moral turpitude; or

(3) Any crime related to the unlawful possession, sale or use of a controlled substance or dangerous drug.

(d) Whether the business operated by the person is the type of business at which a reasonable person purchases a product that is a precursor to methamphetamine.

(e) The previous experience of the person with the sale of a product that is a precursor to methamphetamine.

Sec. 41. A pharmacy or a person who holds a permit shall:

1. Comply with the law of this State and federal law concerning the sale or transfer of a product that is a precursor to methamphetamine.

2. Submit to the Department a report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine not later than:

(a) April 30, for the period from January 1 through March 31;

(b) July 31, for the period from April 1 through June 30;

(c) October 31, for the period from July 1 through September 30; and

(d) January 31, for the period from October 1 of the previous year through December 31 of the previous year.

↪ The Department shall adopt regulations governing the form of the report and the manner in which the report is submitted to the Department.

Sec. 42. At any time that a pharmacy or a business operated by a holder of a permit is open to the public, an agent of the Board, the Department or a local law enforcement agency may examine, copy, seize or impound any records of the pharmacy or the holder of a permit concerning the purchase, sale or transfer of a product that is a precursor to methamphetamine.

Sec. 43. NRS 639.129 is hereby amended to read as follows:

639.129 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 **or a permit issued pursuant to sections 36 to 42, inclusive, of this act** shall include the social security number of the applicant in the application submitted to the Board.

(b) A natural person who applies for the issuance or renewal of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 **or a permit issued pursuant to sections 36 to 42, inclusive, of this act** 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 certificate, ~~for~~ license **or permit**; or

(b) A separate form prescribed by the Board.

3. A certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 **or a permit issued pursuant to sections 36 to 42, inclusive, of this act** may not be issued or renewed by the Board 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 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. 44. NRS 639.170 is hereby amended to read as follows:

639.170 1. The Board shall charge and collect not more than the following fees for the following services:

For the examination of an applicant registration for as a pharmacist	Actual cost of the examination
For the investigation or registration of an applicant as a registered pharmacist	\$200
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity	300
For the investigation or issuance of an original license to conduct a retail pharmacy	600
For the biennial renewal of a license to conduct a retail pharmacy	500
For the investigation or issuance of an original license to conduct an institutional pharmacy	600
For the biennial renewal of a license to conduct an institutional pharmacy	500
For the issuance of an original or duplicate certificate of registration as a registered pharmacist	50
For the biennial renewal of registration as a registered pharmacist	200
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse)	100
For the initial registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the investigation or registration of an intern pharmacist	50
For the biennial renewal of registration as an intern pharmacist	40
For investigation or issuance of an original license to a manufacturer or wholesaler	500
For the biennial renewal of a license for a manufacturer or wholesaler	500
For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon	100
For authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300
For the biennial renewal of authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300

**For the issuance or renewal of a permit to sell or transfer
a product that is a precursor to methamphetamine issued
by the Board pursuant to sections 36 to 42,
inclusive, of this act.....200**

2. If a person requests a special service from the Board or requests the Board to convene a special meeting, he must pay the actual costs to the Board as a condition precedent to the rendition of the special service or the convening of the special meeting.

3. All fees are payable in advance and are not refundable.

4. The Board may, by regulation, set the penalty for failure to pay the fee for renewal for any license, permit, authorization or certificate within the statutory period, at an amount not to exceed 100 percent of the fee for renewal for each year of delinquency in addition to the fees for renewal for each year of delinquency.

Sec. 45. NRS 639.210 is hereby amended to read as follows:

639.210 The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;
2. Is guilty of habitual intemperance;
3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a lawfully issued prescription, while on duty in any establishment licensed by the Board;
4. Is guilty of unprofessional conduct or conduct contrary to the public interest;
5. Is addicted to the use of any controlled substance;
6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;
7. Has been convicted of:
 - (a) A felony relating to holding a certificate, license, registration or permit pursuant to this chapter;
 - (b) A felony pursuant to NRS 639.550 or 639.555; or
 - (c) Other crime involving moral turpitude, dishonesty or corruption;
8. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;
10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;

11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

13. Has failed to renew his certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;

14. Has had his certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;

15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his supervision;

16. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him;

17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS; or

18. Has failed to file or maintain a bond or other security if required by NRS 639.515.

19. Has violated any provision of section 41 of this act or any regulations adopted pursuant thereto.

Sec. 46. 1. The State Board of Pharmacy shall, during the 2007-2009 interim, conduct a study to identify computer software that will create an electronic database which:

(a) Identifies each sale or transfer of a product that is a precursor to methamphetamine immediately after the sale or transfer has occurred; and

(b) A pharmacy or person who holds a permit issued by the Board pursuant to sections 36 to 42, inclusive, of this act may access for the purpose of determining whether a sale or transfer of a product that is a precursor to methamphetamine would violate state or federal law.

2. The State Board of Pharmacy shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

~~Sec. 35.~~ **Sec. 47.** As soon as practicable after October 1, 2007, the Director of the State Department of Agriculture shall appoint to the

Anhydrous Ammonia Additive Advisory Committee created by section 32 of this act:

1. Three members whose terms expire on September 30, 2009; and
2. Three members whose terms expire on September 30, 2011.

~~Sec. 36.~~ **Sec. 48.** 1. This section ~~becomes~~ **and section 46 of this act become** effective upon passage and approval.

2. Sections 4, 5 ~~and~~, 6 **and 35 to 45, inclusive**, of this act become 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 amendatory provisions of sections 4, 5 ~~and~~, 6 and 35 to 45, inclusive, of this act; and

(b) On October 1, 2007, for all other purposes.

3. Sections 1, 2, 3, ~~and~~ 7 to ~~35,~~ **34, inclusive, and 47** of this act become effective on October 1, 2007.

4. Section 43 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.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 161.

Bill read second time.

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

Amendment No. 516.

AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer;

making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) Sections ~~1~~ 1.3 and 2 of this bill require such a business organization to report to the Commissioner of Insurance when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

~~f Existing law prohibits insurance fraud. (NRS 686A.290) Section 4 of this bill requires insurers to adopt programs to detect, prevent and prosecute insurance fraud.~~

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) Section 7 of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) Section 16 of this bill changes the filing requirement to require that such a report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250, 694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. Section 19 of this bill increases the required levels of such capital and surplus. Section 23 of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an insurer to claimants against the insurer. (NRS 696B.420) Section 27 of this bill requires the receiver to determine the validity of a claim and to determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law authorizes the Commissioner to appoint two deputies. Section 31 of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) Section 32 of this bill repeals that requirement.

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

Section 1. NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. ~~¶ The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile (B.I.) and automobile liability (B.I.), 60 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year.~~

4. ~~¶~~ The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

~~Section 1.1.~~ **Sec. 1.1.** Chapter 683A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 and 1.5 of this act.**

Sec. 1.3. 1. A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.

2. A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days after the effective date of the termination in the manner prescribed by the Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.

3. *If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.*

Sec. 1.5. 1. If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:

(a) Any fee to include the name of the provider of health care on the panel; or

(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.

3. A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.

4. In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, and section 1.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for the most recently completed fiscal year of the administrator. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) ~~[Except as otherwise provided in this paragraph, a] A financial statement of the administrator that has been ~~[audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been]~~ reviewed by an independent certified public accountant, ~~if:~~~~

~~(1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~

~~(2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.]~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

5. ~~[On or before September 1 of each year, the]~~ **The** Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

- (a) Attained the age of 18 years;
- (b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;
- (c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;
- (d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and
- (e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~and~~

(b) Designated a natural person who is licensed as a producer of insurance and who is ~~affiliated with~~ **authorized to transact business on behalf of** the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~}; and~~

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~affiliation with~~ **authorization to transact business on behalf of** a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the

Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. ~~[Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Each insurer, including, without limitation, each health maintenance organization, shall establish and maintain a program for the detection, prevention and prosecution of insurance fraud.~~

~~2. A program for the detection, prevention and prosecution of insurance fraud established and maintained pursuant to subsection 1 may include, without limitation, employing or contracting with persons who provide investigative services for the purpose of detecting, preventing or prosecuting insurance fraud.~~ 3. ~~If a program for the detection, prevention and prosecution of insurance fraud established and maintained pursuant to subsection 1 does not include employing or contracting with persons who~~

~~provide investigative services for the purpose of detecting, preventing or prosecuting insurance fraud, the program must be submitted to the Commissioner.~~

~~4. A program submitted to the Commissioner pursuant to subsection 3 is confidential and privileged, is not a public record and is not subject to discovery or subpoena in a civil action or criminal prosecution.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 686A.281 is hereby amended to read as follows:~~

~~686A.281 As used in NRS 686A.281 to 686A.295, inclusive, and section 4 of this act, unless the context otherwise requires, the words and terms defined in NRS 686A.2815, 686A.282 and 686A.2825 have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 686A.283 is hereby amended to read as follows:~~

~~686A.283 1. Any person, governmental entity, insurer or authorized representative of an insurer, including, without limitation, any health maintenance organization, administrator or other person required to be licensed, registered or certified pursuant to the provisions of this title, shall report any information concerning insurance fraud or any activity that may reasonably be believed is related to insurance fraud to the Commissioner and Attorney General on a form prescribed by the Commissioner and Attorney General.~~

~~2. The Commissioner and Attorney General shall each independently:~~

~~(a) Review each report of insurance fraud; and~~

~~(b) Determine whether an investigation should be made of the facts in the report.~~

~~3. During their respective investigations, the Commissioner and Attorney General shall independently determine whether there is probable cause to believe that insurance fraud has occurred.~~

~~4. A district attorney of any county where fraudulent activity has occurred or is occurring or where a fraudulent claim that would constitute insurance fraud has been made may, with the permission of the Attorney General or at the request of the Attorney General, institute proceedings in the name of the State of Nevada.] (Deleted by amendment.)~~

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors *of the Association* shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed ~~[\$150]~~ **\$300** for each member insurer for any ~~one~~ **I** calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to *a change in the rate for a policy of industrial insurance [] which is based on:*

(a) A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; ~~in accordance with the manual of rules formulated pursuant to NRS 686B.1764;~~ or

(b) A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be

constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~{-a person}~~ **or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or** promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. ***The Commissioner may waive the requirements of subsection 1 if the seller agrees:***

(a) ***To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and***

(b) ***Not to collect any money from the purchaser of a prepaid contract.***

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. ***Except as otherwise provided in subsection 2:***

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4-}~~ (d) Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. *The requirements of subsection 1 do not apply if:*

(a) ***The prepaid contract is payable solely from the proceeds of a policy of life insurance; and***

(b) ***The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.***

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~[-a person]~~ ***or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract, to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.***

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. ***Except as otherwise provided in subsection 2:***

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. *The Commissioner may waive the requirements of subsection 1 if the seller agrees:*

(a) ***To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and***

(b) ***Not to collect any money from the purchaser of a prepaid contract.***

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. ***Except as otherwise provided in subsection 2:***

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of

investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.—Except}~~

(d) The trustee shall, except as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~{the trustees shall}~~ maintain the trust fund intact and unimpaired and ~~{shall}~~ not make any payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. "Health benefit plan" means a policy ~~{or certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.}~~ , **contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services.** Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~{,}~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;

(i) Coverage under a blanket student accident and health insurance policy; and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

- (a) Limited-scope dental or vision benefits;
- (b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and
- (c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

- (a) Coverage that is only for a specified disease or illness; and
- (b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

- (a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;
- (b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and
- (c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group, ~~or~~ or the product offered.

2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his

professional duty toward a patient shall, within 45 days after ~~the claim is closed under the policy,~~ *the end of a calendar quarter*, submit a report to the Commissioner concerning ~~the claim,~~ *each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter*. The report must include, without limitation:

- (a) The name and address of the claimant and the insured under ~~the~~ *each* policy;
- (b) A statement setting forth the circumstances of ~~the~~ *that* case;
- (c) Information indicating whether any payment was made on ~~the~~ *a* claim and the amount of the payment, if any; and
- (d) The information specified in subsection 2 of NRS 679B.144 ~~+~~ *for each claim*.

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 *I.* "Service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~1.~~ (a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~2.~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS **683A.321**, **683A.331**, 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520 apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital **or surplus** required to be maintained pursuant to subsection 3, unimpaired paid-in capital **and unencumbered surplus** of:

(a) For a pure captive insurer, not less than ~~[\$100,000;]~~ **\$200,000;**

(b) For an association captive insurer, ~~[incorporated as a stock insurer,]~~ not less than ~~[\$200,000;]~~ **\$500,000;**

(c) For an agency captive insurer, not less than ~~[\$300,000;]~~ **\$600,000;**

(d) For a rental captive insurer, not less than ~~[\$400,000;]~~ **\$800,000;** and

(e) For a sponsored captive insurer, not less than ~~[\$200,000;]~~ **\$500,000.**

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital **and surplus** required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital **or surplus** based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~[;]~~ **and surplus**, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital **and surplus** required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

(a) The captive insurer:

(1) Is insolvent or has impaired its required capital or surplus;

(2) Has failed to meet a requirement of NRS 694C.250, ~~[694C.260,]~~ 694C.320 or 694C.330;

(3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;

(4) Has failed to comply with the provisions of its charter or bylaws;

(5) Has failed to submit to an examination required pursuant to NRS 694C.410;

(6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;

(7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or

(8) Has failed otherwise to comply with the laws of this State; and

(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

(a) Is first approved in writing by the Commissioner;

(b) Is evidenced by a note that is in a form that is approved by the Commissioner; and

(c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~for subsection 1 of NRS 694C.260.~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250 , ~~and 694C.260,~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer

to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, ~~or~~ rental captive insurer **or sponsored captive insurer** shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once~~:

~~(a) Every 6 months for the first~~ **not less frequently than once every 3** years, ~~after an organization for dental care receives its certificate of authority; and~~

~~(b) Each year thereafter,~~
 → conduct an examination of ~~the~~ **an** organization **for dental care** pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he deems necessary. For those organizations transacting business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~{2}~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement *or to pay timely the annual fee* required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ *commenced must be filed in the manner and form established by the receiver and* set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ *that* amount can be ascertained, the facts upon which the claim is based, and the priorities

asserted, if any. All such claims ~~{shall}~~ **must** be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~{shall}~~ be supported by such documents as may be material thereto.

2. All claims filed in this State ~~{shall}~~ **must** be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter, ~~{ }~~ **or as directed by the court.**

3. ~~{Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

4. ~~At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.~~ ***Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:***

(a) ***Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and***

(b) ***If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.***

4. ~~The receiver ~~{shall not}~~ is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class, the receiver shall notify the court and may make a recommendation to the court for the processing of any such claims.~~

5. ***The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.***

6. **The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.**

7. **Not more than 60 days after the mailing of the written notice pursuant to subsection 5 ~~{ }~~ or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.**

~~{ }~~ 8. ***If an objection is filed pursuant to subsection ~~{6}~~ 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time***

for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:

(a) Be sent to the claimant by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and

(b) Specify the time and place of the hearing.

~~{8.}~~ **9.** *A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.*

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.
2. Chapter 679B of NRS.
3. NRS 683A.261.
4. NRS 683A.301.
5. NRS 683A.311.
6. **NRS 683A.331.**
7. NRS 683A.341.

~~{7.}~~ 8. NRS 683A.361.

~~{8.}~~ 9. NRS 683A.400.

~~{9.}~~ 10. NRS 683A.451.

~~{10.}~~ 11. NRS 683A.461.

~~{11.}~~ 12. NRS 683A.480.

~~{12.}~~ 13. NRS 683A.500.

~~{13.}~~ 14. NRS 683A.520.

~~{14.}~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 "Association of self-insured private employers" means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive, ~~{1.}~~ **and section 29.5 of this act.**

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 "Association of self-insured public employers" means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive, ~~{1.}~~ **and section 29.5 of this act.**

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means *the value of* all ~~of~~ the assets , *minus the value of all the liabilities*, of an association of self-insured private employers or of a member of such an association except:

1. Accounts receivable, if they are factored or collateralized.
2. An inventory, except one held for resale and not collateralized.
3. A prepaid expense.
4. An unqualified investment.
5. An allocated bond fund.
6. An investment in an affiliate.
7. A restricted fund.
8. A reserve.
9. A security cost, such as a capitalized bond cost.
10. A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.
11. A contingency or commitment, including any estimated cost.
12. Any book adjustment caused by a change in an accounting policy or a restatement.
13. Goodwill or excess cost over the fair market value of assets.
14. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

- (a) Submit an application for membership to the board of trustees or third-party administrator of the association; and
- (b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

- (a) Have a tangible net worth of at least \$500,000; or
- (b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least \$15,000, calculated in

accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has a combined tangible net worth of all members in the association of at least \$5,000,000;

(c) Has at least 15 members; and

(d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has a combined tangible net worth of all members in the association of at least \$5,000,000; and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The

notice of intent to withdraw must include a statement indicating that the member has:

- (a) Been certified as a self-insured employer pursuant to NRS 616B.312;
- (b) Become a member of another association of self-insured public or private employers; or
- (c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~30~~ 60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act,** or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, **and section 29.5 of this act,** or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

- (a) The association's certificate was obtained by fraud;
- (b) The application for certification contained a material misrepresentation;
- (c) The association is found to be insolvent;
- (d) The association fails to have five or more members;
- (e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;
- (f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;
- (g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or
- (h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~1~~, **and section 29.5 of this act.**

Sec. 31. NRS 232.825 is hereby amended to read as follows:

232.825 The Commissioner:

1. May appoint ~~two~~ **three** deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

TEXT OF REPEALED SECTIONS

689A.735 Report to Commissioner by trustee of medical savings account. On or before July 1 of each year, a trustee of a medical savings account established and maintained in accordance with 26 U.S.C. § 220 shall report to the Commissioner the number of medical savings accounts administered by the trustee during the previous calendar year.

694C.260 Surplus required: Amount; form; Commissioner authorized to prescribe additional requirements; letter of credit.

1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained pursuant to subsection 3, an unencumbered surplus of:

(a) For a pure captive insurer, not less than \$100,000;

(b) For an association captive insurer incorporated as a stock insurer, not less than \$300,000;

(c) For an agency captive insurer, not less than \$300,000;

(d) For a rental captive insurer, not less than \$400,000;

(e) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than \$500,000; and

(f) For a sponsored captive insurer, not less than \$300,000.

2. Except as otherwise provided in subsection 3, the surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of required surplus pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 168.

Bill read second time.

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

Amendment No. 107.

ASSEMBLYMEN BUCKLEY, LESLIE, PARKS, GERHARDT, CONKLIN, ANDERSON, ARBERRY, ATKINSON, BEERS, BOBZIEN, CARPENTER, CLABORN, DENIS, HARDY, HOGAN, HORNE, KIHUEN, KIRKPATRICK, KOIVISTO, MANENDO, MARVEL, MCCLAIN, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLOM, SMITH, STEWART AND WOMACK

AN ACT relating to health care; increasing the income threshold used to establish eligibility of pregnant women for certain programs that provide health care; providing for a subsidy to be made available to certain employees or their spouses toward health insurance; **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**; making appropriations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Health and Human Services to apply to the Federal Government for a waiver pursuant to the Health Insurance Flexibility and Accountability demonstration initiative to provide certain health care benefits to more residents of Nevada for which matching funds are available from the Federal Government. (NRS 422.2726) Existing law further provides that the waiver is to provide coverage for services to pregnant women whose income is not more than 185 percent of the federally designated level signifying poverty. (NRS 422.2727) Section 1

of this bill increases that income threshold to 200 percent of the federally designated level signifying poverty. Existing law further provides that the waiver is to provide a monthly subsidy of up to \$100 toward a policy of insurance purchased by an employee or the spouse of an employee who works for certain small employers if the employee or spouse meet certain requirements. Section 1 requires the Director, if the waiver is authorized only for employees or the spouses of employees who have children, **to establish a program to provide such a subsidy to an employee or spouse of an employee who does not have a child which must** include the subsidy in ~~the state plan,~~ **that program,** to the extent that money is available for that purpose, for employees or their spouses who do not have children but would otherwise qualify for the subsidy pursuant to the waiver.

Section 2 of this bill provides an appropriation in the amount of \$4,500,000 for each fiscal year of the biennium to pay for the cost of increasing the income threshold for making pregnant women eligible for coverage through the waiver. Section 3 of this bill provides an appropriation in the amount of \$6,000,000 for each fiscal year to pay for the cost of providing the subsidy toward a policy of insurance provided to employees or their spouses who do not have children. Section 4 of this bill provides an appropriation in the amount of \$4,500,000 for each fiscal year to allow the Department of Health and Human Services to provide insurance to more children through the Children's Health Insurance Program.

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 and to the State General Fund in equal amounts. (NRS 428.305) Section 5 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. NRS 422.2727 is hereby amended to read as follows:

422.2727 **1.** The Director shall include in the application for the Medicaid waiver pursuant to NRS 422.2726, to the extent authorized by federal law, that the waiver is to:

~~{1-}~~ **(a)** Provide coverage for medical services to pregnant women who have household incomes that are more than 133 percent of the federally designated level signifying poverty but not more than ~~{185}~~ **200** percent of the federally designated level signifying poverty.

~~{2-}~~ **(b)** Provide a monthly subsidy of up to \$100 toward a policy of insurance purchased by an employee or the spouse of an employee:

~~[(a)]~~ (1) Who works for an employer that employs at least 2 but not more than 50 employees;

~~[(b)]~~ (2) Whose household income is less than 200 percent of the federally designated level signifying poverty; and

~~[(c)]~~ (3) Who is otherwise ineligible for Medicaid.

~~[(d)]~~ (c) Provide coverage for hospital care to persons who have low incomes, *who* are otherwise ineligible for Medicaid and who have a catastrophic illness or injury which results in unpaid charges for hospital care. As used in this subsection, “hospital care” has the meaning ascribed to it in NRS 428.155.

2. If a waiver obtained to provide the subsidy set forth in paragraph (b) of subsection 1 is only authorized for an employee or spouse of an employee who has a child, the Director shall establish a program to provide such a subsidy to an employee or spouse of an employee who does not have a child which must include in ~~the State Plan for Medicaid,~~ that program, to the extent that money is available for that purpose, such a monthly subsidy which is made available to an employee or the spouse of an employee who does not have a child if the employee would otherwise qualify for such a subsidy.

Sec. 2. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services for the cost of making additional pregnant women eligible for medical services through the waiver applied for pursuant to NRS 422.2727 by increasing the income threshold for eligibility for such services to not more than 200 percent of the federally designated level signifying poverty:

For the Fiscal Year 2007-2008 \$4,500,000

For the Fiscal Year 2008-2009 \$4,500,000

2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums 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. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services to include in the ~~state plan~~ **program described in subsection 2 of NRS 422.2727, as amended by section 1 of this act**, a subsidy of up to \$100 toward a policy of insurance purchased by an employee or the spouse of an employee who does not have a child and who would otherwise qualify for such a subsidy pursuant to paragraph (b) of subsection 1 of NRS 422.2727 ~~+~~, **as amended by section 1 of this act:**

For the Fiscal Year 2007-2008 \$6,000,000

For the Fiscal Year 2008-2009 \$6,000,000

2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums 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. 4. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services to allow the Department to provide insurance to additional children through the Children's Health Insurance Program:

For the Fiscal Year 2007-2008 \$4,500,000

For the Fiscal Year 2008-2009 \$4,500,000

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

Sec. 5. 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 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. 5.~~ **Sec. 6.** This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to the Concurrent Committee on Ways and Means.

Assembly Bill No. 209.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 458.

AN ACT relating to the taxation of property; revising the provisions governing certain exemptions from taxes and appeals by taxpayers; **revising certain requirements for the assessment of common-interest communities**; revising the provisions governing the **calculation of certain**

partial abatements of taxes and the collection of taxes following certain fluctuations in taxable value; requiring the Committee on Local Government Finance to adopt regulations for the allocation of certain reductions in revenue resulting from the partial abatement of taxes; providing limitations upon certain requests for the waiver of interest and penalties imposed for the late payment of taxes; repealing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each county assessor to provide certain information regarding property taxes on the Internet. (NRS 361.0445) Section 1 of this bill authorizes a county assessor to disseminate, by additional means, certain information to the public concerning the taxation of property.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Section 2 of this bill simplifies the administration of this exemption by removing any calculation of the value of such a qualified system from the determination of the assessed value of a building to which the exemption applies.

Existing law provides partial exemptions from property taxes for the property of surviving spouses, blind persons, veterans, disabled veterans and certain veterans' organizations, and provides for annual increases in those exemptions beginning with the 2006-2007 Fiscal Year based upon the increase in the Consumer Price Index from July 2004. (NRS 361.080, 361.085, 361.090, 361.091, 361.095) Sections 3-7 of this bill provide for the commencement of those annual increases during the 2005-2006 Fiscal Year based upon the increase in the Consumer Price Index from July 2003.

Section 7.5 of this bill provides an exemption from property taxes for certain property held by the Archaeological Conservancy.

Section 8 of this bill repeals a \$5,000 limitation on the amount of an exemption from property taxes applicable to the funds, furniture, paraphernalia and regalia of certain lodges and other charitable organizations. (NRS 361.135)

Existing law requires the filing of claims for personal tax exemptions on real property, and the initial claim of an organization for a tax exemption on real property, to be filed on or before June 15. (NRS 361.155) Section 9 of this bill extends that deadline to July 5 for real property acquired after June 15 and before July 1.

Existing law provides for the assessment of property taxes for a common-interest community on the community units and not on the common elements of the community. (NRS 361.233) Section 10 of this bill specifies the methodology for determining the taxable value of a parcel that includes such a community unit and clarifies the definitions of "community unit" and "common elements" for this purpose.

Existing law allows taxpayers to appeal the amount of certain assessments of their property to the State Board of Equalization. (NRS 361.360) Section ~~10~~ **11** of this bill limits the effect of a change in assessment resulting from such an appeal to the fiscal year for which the assessment was made.

Under existing law, a property owner may protest the payment of taxes claimed to be in excess of the amount justly due and, if the State Board of Equalization denies relief, commence a legal proceeding in any county of this State to recover any overpayment. (NRS 361.420) Existing law authorizes a property owner to consolidate similar suits regarding property in more than one county into a single legal action. (NRS 361.435) Sections ~~11 and~~ **12 and 13** of this bill clarify that these proceedings consist of a judicial review of the decision of the State Board of Equalization and limit the locations where these proceedings may be brought.

Existing law provides for a generally applicable partial abatement of the property taxes levied on property for which an assessed valuation has previously been established or on a remainder parcel of property, based upon the average change in the assessed valuation of property in the county over the last 10 years or twice the increase in the Consumer Price Index for the last year, whichever is greater. (NRS 361.4722) Section 15 of this bill ensures that this partial abatement cannot be less than zero nor greater than 8 percent.

Existing law exempts from certain partial abatements of property taxes certain increases in the taxable value of property following large fluctuations in that value and requires the collection of the resulting taxes due over a period of 3 years. (NRS 361.4725) Section ~~13~~ **19** of this bill allows the collection of the amount due in a single year if that amount does not exceed \$100 and authorizes the Nevada Tax Commission to exempt from collection any amount which is less than the cost of collection.

Existing law provides formulas for the allocation of reductions in revenue resulting from certain partial abatements of property taxes applicable to property for which the tax rate increases and authorizes the Committee on Local Government Finance to adopt regulations for the administration and interpretation of those formulas. (NRS 361.473, 361.4731, 361.4733) Section 23 of this bill requires the Committee to adopt such regulations as it determines to be appropriate, in accordance with certain specified principles, for the allocation of reductions in revenue resulting from those partial abatements of property taxes. Section 29 of this bill ratifies the regulations previously adopted by the Committee and requires the adoption of additional regulations not later than December 31, 2007. Section 28 of this bill repeals the existing formulas after the adoption of the additional regulations.

Existing law allows a taxpayer to petition the tax receiver for the review of a determination regarding the applicability of certain partial abatements from property taxes. (NRS 361.4734) Section ~~14~~ **25** of this bill requires the submission of the petition ~~within 30 days after the taxpayer has notice of the~~

~~determination.] 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 ~~(15)~~ **26** of this bill requires a person seeking such relief to pay the amount of the taxes due and file the statement within 30 days after that payment is made.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) Sections ~~(16 and 17)~~ **27 and 28** of this bill provide for the continuation of this funding by repealing its prospective expiration on July 1, 2007.

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A county assessor may, by regular mail, electronic means or any other means the assessor deems appropriate, disseminate information to the public concerning the taxation of property, including, without limitation, information relating to the valuation and assessment of property, exemptions from taxation, the declaration of a homestead and programs for the assistance of senior citizens.

2. Any information provided pursuant to subsection 1 must, to the extent practicable, be in a form that is easily understood and readily accessible to the public.

Sec. 2. NRS 361.079 is hereby amended to read as follows:

361.079 1. Except as otherwise provided in subsection 2, ~~{for any assessment made on or after July 1, 1983, any value added by}~~ *the value of* a qualified system must ~~{be excluded from}~~ *not be included in* the assessed value of ~~{the building regardless of the date the system was installed.~~

~~2. Value}~~ *a building.*

2. Any value added by a qualified system must ~~{not be excluded from}~~ *be included in* the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption *pursuant to NRS 361.045 to 361.159, inclusive,* from the taxes imposed by this chapter.

3. As used in this section, “qualified system” means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

(a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

↪ which conforms to standards established by regulation of the Department.

Sec. 3. NRS 361.080 is hereby amended to read as follows:

361.080 1. The property of surviving spouses, not to exceed the amount of \$1,000 assessed valuation, is exempt from taxation, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

6. Beginning with the ~~[2006-2007]~~ **2005-2006** Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ **2003** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 4. NRS 361.085 is hereby amended to read as follows:

361.085 1. The property of all blind persons, not to exceed the amount of \$3,000 of assessed valuation, is exempt from taxation, including community property to the extent only of the blind person's interest therein, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same blind person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the

exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

3. Upon first claiming the exemption in a county, the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that he has examined the claimant and has found him to be a blind person.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

5. Beginning with the ~~[2006-2007]~~ **2005-2006** Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ **2003** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "blind person" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

Sec. 5. NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of \$2,000 assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty, and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States,

or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first \$2,000 assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

→ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the ~~{2006-2007}~~ **2005-2006** Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~{2004}~~ **2003** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 6. NRS 361.091 is hereby amended to read as follows:

361.091 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his surviving spouse, is entitled to a disabled veteran's exemption.

2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption for total permanent disability is the first \$20,000 assessed valuation. A person with a permanent service-connected disability of:

(a) Eighty to 99 percent, inclusive, is entitled to an exemption of \$15,000 assessed value.

(b) Sixty to 79 percent, inclusive, is entitled to an exemption of \$10,000 assessed value.

↪ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

3. The exemption may be allowed only to a claimant who has filed an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that he meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

↪ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require him to produce an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his permanent service-connected disability;

(b) A certificate of satisfactory service which indicates the total percentage of his permanent service-connected disability; or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he has incurred a permanent service-connected disability and which indicates the total percentage of that disability, together with a certificate of honorable discharge or satisfactory service.

6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the disabled veteran for the 5 years preceding his death;

(b) The disabled veteran was eligible for the exemption at the time of his death or would have been eligible if he had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

↪ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 4 and 5. After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

7. If a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent.

8. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

9. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

10. Beginning with the ~~{2006-2007}~~ **2005-2006** Fiscal Year, the monetary amounts in subsection 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~{2004}~~ **2003** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 7. NRS 361.095 is hereby amended to read as follows:

361.095 1. The funds, furniture, paraphernalia and regalia owned and used exclusively by any post of any national organization of ex-servicemen or ex-servicewomen for the legitimate purposes and customary objects of such posts are exempt from taxation, but such an exemption must not exceed the sum of \$10,000 assessed valuation to any one post or organization thereof.

2. The buildings, with their fixtures and the lots of ground on which they stand, used for its legitimate purposes and necessary thereto, of any such organization are exempt from taxation, but when any such property is used for purposes other than those of such an organization, and a rent or other valuable consideration is received for its use, the property so used must be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such an organization and partly for rental purposes, the area used for rental purposes must be assessed separately and that portion only may be taxed.

4. Beginning with the ~~[2006-2007]~~ **2005-2006** Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July ~~[2004]~~ **2003** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 7.5. NRS 361.111 is hereby amended to read as follows:

361.111 1. Except as otherwise provided in subsections 2 and 3, all real property and improvements thereon acquired by the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy and held for ultimate acquisition by the State or a local governmental unit are exempt from taxation if:

(a) The State or a local governmental unit has agreed, in writing, that acquisition of the property will be given serious consideration; and

(b) For property for which the State has given the statement required by paragraph (a), the governing body of the county in which the property is located has approved the potential acquisition of the property by the State.

2. When the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes of conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the property must be assessed at the rate set for first-class pasture by the Nevada Tax Commission for each year it was exempt pursuant to subsection 1 and the taxes must be collected as other taxes under this chapter are collected.

3. When the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy transfers property it has held for purposes other than conservation to any person, partnership, association, corporation or entity other than the State or a local governmental unit, the tax imposed by this chapter must be assessed against the property for each year it was exempt pursuant to subsection 1 and collected in the manner provided in this chapter.

4. The Nevada Tax Commission shall adopt regulations specifying the criteria for determining when property has been held by the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy for purposes of conservation.

Sec. 8. NRS 361.135 is hereby amended to read as follows:

361.135 1. The funds, furniture, paraphernalia and regalia owned by any lodge of the Benevolent Protective Order of Elks, Fraternal Order of Eagles, Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias or Knights of Columbus, or by any similar charitable

organization, or by the Lahontan Audubon Society, the National Audubon Society, Inc., of New York, the Defenders of Wildlife of the District of Columbia or any similar benevolent or charitable society, so long as ~~the same shall be~~ **they are** used for the legitimate purposes of such lodge or society or for such charitable or benevolent purposes, ~~shall be~~ **are** exempt from taxation . ~~but such exemption shall in no case exceed the sum of \$5,000 assessed valuation to any one lodge, society or organization.~~

2. The real estate and fixtures of any such organization or society ~~shall be~~ **are** exempt from taxation, but when any such property is used for purposes other than those of such organization or society, and a rent or other valuable consideration is received for its use, the property so used ~~shall~~ **must** be taxed.

3. Where any structure or parcel of land is used partly for the purposes of such organization or society and partly for rental purposes, the area used for rental purposes ~~shall~~ **must** be assessed separately and that portion only ~~shall~~ **may** be taxed.

Sec. 9. NRS 361.155 is hereby amended to read as follows:

361.155 1. ~~At~~ **Except as otherwise provided in this subsection, all** claims for personal tax exemptions on real property, the initial claim of an organization for a tax exemption on real property and the designation of any amount to be credited to the Gift Account for Veterans' Homes pursuant to NRS 361.0905 must be filed on or before June 15. **An initial claim for a tax exemption on real property acquired after June 15 and before July 1 must be filed on or before July 5.**

2. All exemptions provided for pursuant to this chapter apply on a fiscal year basis and any exemption granted pursuant to this chapter must not be in an amount which gives the taxpayer a total exemption greater than that to which he is entitled during any fiscal year.

~~2.~~ 3. Each claim for an exemption provided for pursuant to this chapter must be filed with the county assessor of:

(a) The county in which the claimant resides for personal tax exemptions;
or

(b) Each county in which property is located for the tax exemption of an organization.

~~3.~~ 4. After the initial claim for an exemption pursuant to NRS 361.088 or 361.098 to 361.150, inclusive, an organization is not required to file annual claims if the property remains exempt. If any portion of the property loses its exemption pursuant to NRS 361.157 or for any other reason becomes taxable, the organization must notify the county assessor.

~~4.~~ 5. If an exemption is granted or renewed in error because of an incorrect claim or failure of an organization to give the notice required by subsection ~~3.~~ 4, the assessor shall assess the taxable portion of the property retroactively pursuant to NRS 361.769 and a penalty of 10 percent of the tax due for the current year and any prior years may be added.

Sec. 10. NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

~~(b) Each community unit must be assessed separately for the purposes of ad valorem taxes and special assessments.~~

~~(c) Any lien created by the levy of an ad valorem tax or special assessment upon a community unit applies only to the community unit assessed and does not apply to any other portion of the common-interest community.~~ **The taxable value of each parcel:**

(1) Composed solely of a community unit must consist of:

(I) The taxable value of that community unit; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or

(2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:

(I) The taxable value of that community unit only; and

(II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.

3. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means ~~all real property within~~ **the physical portion of** a common-interest community ~~other than the community units,~~ **including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms,** which is ~~owned~~ **:**

(1) Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and

(2) Owned:

(I) By the community association;

~~(2)~~ **(II) By any person on behalf or for the benefit of the owners of the community units; or**

~~(3)~~ **(III) Jointly by the owners of the community units.**

(c) "Common-interest community" means real property with respect to which a person, by virtue of his ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community ~~designated~~, ***other than the common elements, which is:***

(1) Designated for separate ownership or occupancy ~~is~~; ***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. 10.~~ **Sec. 11.** NRS 361.360 is hereby amended to read as follows:

361.360 1. Any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 and present to the State Board of Equalization the matters complained of at one of its sessions. If March 10 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. All such appeals must be presented upon the same facts and evidence as were submitted to the county board of equalization in the first instance, unless there is discovered new evidence pertaining to the matter which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization. The new evidence must be submitted in writing to the State Board of Equalization and served upon the county assessor not less than 7 days before the hearing.

3. Any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may likewise protest to the State Board of Equalization. Every such appeal must be filed on or before May 15. If May 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. A meeting must be held before May 31 to hear those protests that in the opinion of the State Board of Equalization may have a substantial effect on tax

revenues. One or more meetings may be held at any time and place in the State before October 1 to hear all other protests.

4. The State Board of Equalization may not reduce the assessment of the county assessor if:

(a) The appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include in the list required of him pursuant to NRS 361.265 or **if the taxpayer** has refused or, without good cause, has neglected to provide the list to the county assessor; or

(b) The taxpayer has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination authorized by NRS 361.260.

5. **Any change made in an assessment appealed to the State Board of Equalization is effective only for the fiscal year for which the assessment was made.** The county assessor shall **review** each ~~year review any~~ **such** change ~~made in an assessment for the previous fiscal year~~ and maintain or remove the change as circumstances warrant ~~for the next fiscal year.~~

6. If the State Board of Equalization determines that the record of a case on appeal from the county board of equalization is inadequate because of an act or omission of the county assessor, the district attorney or the county board of equalization, the State Board of Equalization may remand the case to the county board of equalization with directions to develop an adequate record within 30 days after the remand. The directions must indicate specifically the inadequacies to be remedied. If the State Board of Equalization determines that the record returned from the county board of equalization after remand is still inadequate, the State Board of Equalization may hold a hearing anew on the appellant's complaint or it may, if necessary, contract with an appropriate person to hear the matter, develop an adequate record in the case and submit recommendations to the State Board. The cost of the contract and all costs, including attorney's fees, to the State or the appellant necessary to remedy the inadequate record on appeal are a charge against the county.

~~Sec. 11.~~ **Sec. 12.** NRS 361.420 is hereby amended to read as follows:

361.420 1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in the form of a separate, signed statement from the property owner and filed with the tax receiver at the time of the payment of the installment of taxes.

2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the State Board of Equalization, may ~~commence a suit~~ **file for the judicial review of the decision of the State Board of Equalization** in any court of competent jurisdiction in the ~~State of Nevada~~ **county in which the taxes were paid** against the State and county in which the taxes were paid, and, in a proper case, both the Nevada Tax Commission and the Department may be joined as

a defendant for a recovery of the difference between the amount of taxes paid and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.

3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the State Board of Equalization denying relief, whichever occurs later, and if not so commenced is forever barred.

4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:

- (a) That the taxes have been paid before the suit;
- (b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the State, specifying in detail the claim of exemption;
- (c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;
- (d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;
- (e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;
- (f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; or
- (g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed.

5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) and (g) of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.

6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.

7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed 6 percent per annum from and after the date of payment of the tax complained of.

~~{Sec. 12.}~~ **Sec. 13.** NRS 361.435 is hereby amended to read as follows:

361.435 Any property owner owning property of like kind in more than one county in the State and desiring to proceed with a suit under the provisions of NRS 361.420 may, where the issues in the cases are substantially the same in all or in some of the counties concerning the assessment of taxes on such property, consolidate any of the suits in one action and bring the action in any court of competent jurisdiction in ~~{Carson City,}~~ the county of this State where the property owner resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Department.

Sec. 14. NRS 361.471 is hereby amended to read as follows:

361.471 As used in NRS 361.471 to 361.4735, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~{361.4711 to 361.4721, inclusive,}~~ **361.4712, 361.4715 and 361.4721** have the meanings ascribed to them in those sections.

Sec. 15. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↳ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~{lesser}~~ **greater** of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~{or}~~

(II) ~~Eight percent; or~~

~~(2)~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~1~~; 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; ~~for~~

(II) ~~Eight percent; or~~

~~(2)~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year ~~±~~; or

(III) Zero; or

(2) Eight percent,

↪ whichever is ~~greater~~ less.

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.473 to 361.4733, inclusive, and any regulations adopted pursuant thereto, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section ~~±~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder"~~ "remainder" parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.~~

Sec. 16. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal

year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↪ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The ~~lesser~~ greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years; ~~or~~

(II) ~~Eight percent; or~~

~~(2)~~ Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; ~~or~~ 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 ~~is~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Remainder,"~~ **"remainder** parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property

for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[(c) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.]~~

Sec. 17. NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↪ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive,]~~ 361.4732 and any regulations adopted pursuant ~~[thereto,]~~ to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied

in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) ~~“Ad valorem taxes levied in a county” means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b)~~ (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)~~ (d) “Taxing entity” means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.

~~(e)~~ (c) “Unit of personal property” includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

↳ if classified as personal property for the purposes of this chapter.

~~(f)~~ (d) “Unit of real property” includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

Sec. 18. NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↪ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to:

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS ~~[361.473 to 361.4733, inclusive]~~ 361.4732 and any regulations adopted pursuant ~~[thereto]~~ to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for

that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

~~{5. For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.~~

~~{Sec. 13.}~~ **Sec. 19.** NRS 361.4725 is hereby amended to read as follows:

361.4725 1. ~~{Notwithstanding}~~ ***Except as otherwise provided in this section and notwithstanding*** the provisions of NRS 361.4722, 361.4723 and 361.4724, if the taxable value of any parcel or other taxable unit of property:

(a) Decreases by 15 percent or more from its taxable value on:

(1) July 1, 2003; or

(2) July 1 of the second year immediately preceding the lien date for the current year,

↪ whichever is later; and

(b) For any fiscal year beginning on or after July 1, 2005, increases by 15 percent or more from its taxable value for the immediately preceding fiscal year,

↪ the amount of any ad valorem taxes levied in a county which, if not for the provisions of NRS 361.4722, 361.4723 and 361.4724, would otherwise have been collected for the property for that fiscal year as a result of that increase in taxable value, excluding any amount attributable to any increase in the taxable value of the property above the taxable value of the property on the most recent date determined pursuant to paragraph (a), must be levied on the property and carried forward each fiscal year, without any penalty or interest, in such a manner that one-third of that amount may be collected during that fiscal year and each of the succeeding 2 fiscal years.

2. ***If the total amount otherwise required to be collected during a fiscal year and each of the succeeding 2 fiscal years pursuant to subsection 1 for a parcel or other taxable unit of property is less than or equal to \$100, the entire amount may be levied on the property and collected during that initial fiscal year.***

3. ***The Nevada Tax Commission may exempt from the requirements of this section the levy of any taxes in an amount which is less than the cost of collecting those taxes.***

4. The amount of any taxes ~~{which are carried forward and}~~ levied on any property pursuant to this section must be added to the amount of ad

valorem taxes each taxing entity would otherwise be entitled to receive for a fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

~~{3.}~~ 5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

~~{4.—For the purposes of this section:~~

~~(a) "Ad valorem taxes levied in a county" means any ad valorem taxes levied by the State or any other taxing entity in a county.~~

~~(b) "Taxing entity" means the State and any political subdivision or other legal entity in this State which has the right to receive money from ad valorem taxes.~~

Sec. 20. NRS 361.473 is hereby amended to read as follows:

361.473 **Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:**

1. On or before August 1 of each fiscal year, the tax receiver of each county shall determine for each parcel or other taxable unit of property located in that county, other than any property to which subsection 2 or NRS 361.4731 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323, other than any property to which NRS 361.4731 applies, and for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724 and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year, the amount which equals the lesser of:

(a) The amount of the partial abatement of taxes to which the owner of the property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(b) The product of the assessed value of the property for the current fiscal year and the difference between:

(1) The combined overlapping tax rate applicable to the property for the current fiscal year; and

(2) The combined overlapping tax rate applicable to the property for the immediately preceding fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1 or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is determined pursuant to subsection 1 or 2 must be deducted from the amount of ad valorem taxes that each taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year in the same proportion as that increase in its ad valorem tax rate bears to the total increase in the combined overlapping tax rate applicable to the property for the current fiscal year.

Sec. 21. NRS 361.4731 is hereby amended to read as follows:

361.4731 **Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733:**

1. On or before August 1 of each fiscal year, the tax receiver of each county in which is located a redevelopment area for which there is any incremental assessed value shall determine for each parcel or other taxable unit of property in that redevelopment area, other than any property to which subsection 2 applies, for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

2. On or before August 1 of each fiscal year, the Department shall determine for each parcel or other taxable unit of property which is valued pursuant to NRS 361.320 or 361.323 and apportioned to a redevelopment area for which there is any incremental assessed value, and for which the owner thereof is entitled to a partial abatement of taxes pursuant to NRS 361.4722, 361.4723 or 361.4724, and the combined overlapping tax rate applicable to the property for the current fiscal year exceeds the combined overlapping tax rate applicable to the property for the immediately preceding fiscal year:

(a) The amount which equals the lesser of:

(1) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year; or

(2) The product of the parcel-proportionate share of the base value for that property for the current fiscal year and the greater of:

(I) Zero; or

(II) The rate that results when the rate obtained by adding the combined overlapping tax rate for that property for the immediately preceding fiscal year to a percentage of that rate which is equal to the abatement percentage applicable to the property for the current fiscal year, is subtracted from the combined overlapping tax rate for that property for the current fiscal year; and

(b) The amount which equals the difference between:

(1) The amount determined pursuant to paragraph (a); and

(2) The amount of the partial abatement of taxes to which the owner of that property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the current fiscal year.

3. That portion of the amount of any reduction in the ad valorem taxes levied on any parcel or other taxable unit of property to which subsection 1 or 2 applies for a fiscal year as a result of the application of NRS 361.4722, 361.4723 or 361.4724 which is determined pursuant to:

(a) Paragraph (a) of subsection 1 or paragraph (a) of subsection 2 for each such parcel or other taxable unit of property for which the combined overlapping tax rate for the current fiscal year has increased from the combined overlapping tax rate for the immediately preceding fiscal year by a percentage that exceeds the abatement percentage for that property, must be deducted from the amount of ad valorem taxes that each redevelopment taxing entity which has increased its rate of ad valorem taxes applicable to the property from the rate for the immediately preceding fiscal year, would otherwise be entitled to receive for the current fiscal year from the ad

valorem taxes levied on the base-year assessed value for that property in the same proportion as that increase in its ad valorem tax rate bears to the total increase in the combined overlapping tax rate applicable to the property for the current fiscal year; and

(b) Paragraph (b) of subsection 1 or paragraph (b) of subsection 2 must be deducted from the amount of ad valorem taxes the redevelopment agency and each redevelopment taxing entity would otherwise be entitled to receive pursuant to paragraphs (b), (c) and (d) of subsection 1 of NRS 279.676 for the current fiscal year in the same proportion as each of those entities would otherwise share in the total amount distributed pursuant to those paragraphs.

Sec. 22. NRS 361.4732 is hereby amended to read as follows:

361.4732 ~~Notwithstanding~~ **Except as otherwise required to carry out any regulations adopted pursuant to NRS 361.4733 and notwithstanding** any other provision of NRS 361.471 to 361.4735, inclusive, to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

Sec. 23. NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~may~~ **shall** adopt:

(a) **Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of**

real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS 361.473, 361.4731 and 361.4732; and

~~[(b)]~~ (2) Regulations which provide, in a manner that is consistent with the provisions of NRS 361.473, 361.4731 and 361.4732, methodologies for allocating among the appropriate taxing entities the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724 if the property is included in or excluded from the boundaries of a redevelopment area, tax increment area or taxing entity after June 14, 2005.

2. Any regulations adopted by the Committee on Local Government Finance pursuant to this section must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

Sec. 24. NRS 361.4733 is hereby amended to read as follows:

361.4733 1. The Committee on Local Government Finance ~~may~~ **shall** adopt:

(a) Such regulations as it determines to be appropriate to provide for the allocation among the appropriate taxing entities of the amount of any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, in accordance with the principles that:

(1) Any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722,

361.4723 and 361.4724 which is caused by an increase in the rate of taxes imposed by one or more taxing entities should be allocated to the taxing entities that would have received the benefit of that increase in proportion to the relative amount of benefit that otherwise would have been received from that increase;

(2) Any increase in the rate of ad valorem taxes imposed by a taxing entity should not affect the amount of ad valorem taxes received by other taxing entities, except for redevelopment agencies and tax increment areas whose property tax receipts depend on the tax rate of the taxing entity that increases its rate of taxes and whose territory is included, in whole or in part, in the territory of the taxing entity that increases its rate of taxes; and

(3) A taxing entity that does not increase its rate of ad valorem taxes should not be allocated any reduction in the ad valorem taxes levied on a parcel or other taxable unit of real property as a result of the application of NRS 361.4722, 361.4723 and 361.4724, except for any reduction caused by an increase in the assessed value of that parcel or other taxable unit of real property; and

(b) Subject to the principles set forth in paragraph (a):

(1) Such regulations as it determines to be appropriate for the administration and interpretation of the provisions of NRS ~~361.473, 361.4731 and~~ 361.4732; and

~~(b) (2) Regulations which provide 1, 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. 14.~~ **Sec. 25.** NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722, 361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the tax receiver of the county in which the property is located. **The petition must be submitted ~~not later than 30 days after the taxpayer receives~~**

~~(1) Written notification of the determination from the county assessor or county treasurer; or~~

~~(2) The individual tax bill or individual tax notice for the property from the tax receiver;~~

~~whichever occurs first.] 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. 15.]~~ **Sec. 26.** NRS 361.4835 is hereby amended to read as follows:

361.4835 1. If the county treasurer or the county assessor finds that a person's failure to make a timely return or payment of tax that is assessed by the county treasurer or county assessor and that is imposed pursuant to chapter 361 of NRS, except NRS 361.320, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the county treasurer or the county assessor may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must **pay the amount of the tax due and, within 30 days after the date the payment is made,** file a statement setting forth the facts upon which he bases his claim with the county treasurer or the county assessor.

3. The county treasurer or the county assessor shall disclose, upon the request of any person:

- (a) The name of the person; and
- (b) The amount of the relief.

4. If the relief sought by the taxpayer is denied, he may appeal from the denial to the Nevada Tax Commission.

5. The county treasurer or the county assessor may defer the decision to the Department.

~~Sec. 16.]~~ **Sec. 27.** Section 57 of chapter 496, Statutes of Nevada 2005, at page 2680, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

~~4. Section 23 of this act becomes effective on July 1, 2007.~~

~~5. Section 43 of this act expires by limitation on June 30, 2007.~~

~~Sec. 17.]~~ **Sec. 28. 1. NRS 361.4711, 361.4713, 361.4714, 361.4716, 361.4717, 361.4718, 361.4719, 361.472, 361.473 and 361.4731 are hereby repealed.**

2. Section 23 of chapter 496, Statutes of Nevada 2005, at page 2660, is hereby repealed.

Sec. 29. 1. The Legislature hereby approves, confirms and ratifies the regulations adopted by the Committee on Local Government Finance pursuant to NRS 361.4733 before the effective date of this section.

2. The Committee on Local Government Finance shall adopt the regulations required pursuant to the amendatory provisions of section 23 of this act not later than December 31, 2007.

~~Sec. 18.]~~ **Sec. 30. 1. This section and ~~sections 16 and 17]~~ section 27, subsection 2 of section 28 and section 29 of this act become effective upon passage and approval.**

2. Sections 1 to ~~15,~~ **13, inclusive, 15, 19 to 23, inclusive, 25 and 26** of this act become effective on July 1, 2007.

3. Sections 15 and 23 of this act expire by limitation on December 31, 2007.

4. Sections 14, 16, 17, 18 and 24 and subsection 1 of section 28 of this act become effective on January 1, 2008.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

361.4711 "Abatement percentage" defined.

361.4713 "Base-year assessed value" defined.

361.4714 "Base-year assessed value percentage" defined.

361.4716 "Incremental assessed value" defined.

361.4717 "Parcel-proportionate share of the base value" defined.

361.4718 "Redevelopment agency" defined.

361.4719 "Redevelopment area" defined.

361.472 "Redevelopment taxing entity" defined.

361.473 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Generally.

361.4731 Allocation of certain portions of reduction in revenue resulting from partial abatements applicable to property for which tax rate increases: Property in or apportioned to redevelopment area.

Section 23 of chapter 496, Statutes of Nevada 2005:

Sec. 23. NRS 361.530 is hereby amended to read as follows:

361.530 ~~{1. Except as otherwise provided in this section, on}~~ **On** all money collected from personal property tax by the several county assessors and county treasurers, there must be reserved and paid into the county treasury, for the benefit of the general fund of their respective counties, by the county assessor or county treasurer, a percentage commission of ~~{8}~~ **6** percent on the gross amount of collections from personal property tax.

~~{2. One quarter of the commission reserved pursuant to subsection 1 must be accounted for separately in the account for the acquisition and improvement of technology in the office of the county assessor created pursuant to NRS 250.085.}~~

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 232.

Bill read second time.

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

Amendment No. 480.

SUMMARY—Requires the ~~{State Board of Pharmacy}~~ **Department of Health and Human Services** to make available to consumers certain information relating to pharmacies and the prices of commonly prescribed prescription drugs. (BDR ~~{54-856}~~ **40-856**)

AN ACT relating to the ~~{State Board of Pharmacy}~~ **Department of Health and Human Services**; requiring the ~~{Board to compile and}~~ **Department** to make available to consumers certain information relating to pharmacies and the prices of commonly prescribed prescription drugs; making an appropriation; providing an administrative penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{Sections 2 and 4 7 of this bill require the State Board of Pharmacy to: (1)}~~ **Section 3 of this bill requires the Retail Association of Nevada or its successor** to compile a list of not less than 100 prescription drugs, and their generic equivalents, that are most commonly prescribed to residents of this State . ~~{(2)}~~ **Sections 5-8 of this bill require the Department of Health and Human Services to: (1)** combine the contents of the list with ~~{retail}~~ **usual and customary** pricing information received from pharmacies that are licensed by the **State Board** ~~{and (3)}~~ **of Pharmacy; and (2)** present the combined information on the ~~{Board's}~~ **Department's** Internet website so that consumers may compare the ~~{retail}~~ prices currently being charged by those pharmacies for those prescription drugs. **By regulation, links to such information on the Department's website may be placed on the Internet websites of other persons and entities, including pharmacies and other governmental entities.** Section ~~{3}~~ **4** of this bill requires pharmacies that are

licensed by the **State Board of Pharmacy** and located in the State of Nevada to provide to the ~~{Board,}~~ **Department**, at least once each month, the ~~{retail}~~ **usual and customary** prices that the pharmacy charges for the prescription drugs on the ~~{Board's most prescribed,}~~ **list of most-prescribed drugs compiled by the Retail Association of Nevada**, as well as certain contact information for the pharmacy. Pharmacies that are licensed by the **State Board of Pharmacy** but located outside the State of Nevada may, but are not required to, provide such information. Section ~~{8}~~ **9** of this bill allows the ~~{Board}~~ **Department** to accept grants, donations, gifts and other public and private money to carry out the provisions of this bill. Section ~~{9}~~ **10** of this bill provides that if a pharmacy is required to provide information to the ~~{Board}~~ **Department** pursuant to section ~~{3}~~ **4** and the pharmacy, without good cause, fails to do so or fails to do so in a timely manner, the ~~{Board}~~ **Department** may impose an administrative penalty of up to \$500 for each day on which such a failure occurs. Section ~~{12}~~ **13** of this bill makes an appropriation to the ~~{Board}~~ **Department** to pay for the goods and services needed by the ~~{Board}~~ **Department** in order to furnish information to consumers by way of its Internet website. **This bill excludes institutional pharmacies from the application of its provisions.**

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

Section 1. Chapter ~~{639}~~ **439** of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~{9}~~ **10**, inclusive, of this act.

Sec. 2. As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, "pharmacy" means every store or shop licensed by the State Board of Pharmacy where drugs, controlled substances, poisons, medicines or chemicals are stored or possessed, or dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded or dispensed. The term does not include an institutional pharmacy as defined in NRS 639.0085.

~~{Sec. 2}~~ *Sec. 3. The ~~{Board}~~ Retail Association of Nevada or its successor shall:*

- 1. Compile a list of not less than the 100 brand name prescription drugs most commonly prescribed to residents of this State; ~~{and}~~*
- 2. Ensure that the list compiled pursuant to subsection 1 ~~{=}~~
~~{a} Sets~~ *sets forth a separate entry for the generic equivalent, if any, of each brand name prescription drug included on the list; and*
~~{b} Is updated at~~*
- 3. At least once each calendar quarter ~~{=}~~, update the list compiled pursuant to subsection 1 and transmit the list to the Department.*

~~{Sec. 3}~~ *Sec. 4. 1. Except as otherwise provided in subsections 2 and 3, each pharmacy ~~{that is licensed under the provisions of this chapter}~~ shall, in accordance with the regulations adopted pursuant to section ~~{7}~~ **8** of this act, provide to the ~~{Board}~~ **Department:***

(a) Information that a consumer may use to locate, contact or otherwise do business with the pharmacy, including, without limitation:

- (1) The name of the pharmacy;
- (2) The physical address of the pharmacy; and
- (3) The phone number of the pharmacy;

(b) If the pharmacy maintains an electronic mail address, the electronic mail address of the pharmacy;

(c) If the pharmacy maintains an Internet website, the Internet address of that website; and

(d) Not less frequently than once each month:

(1) For each prescription drug that is on the list compiled pursuant to section ~~2~~ 3 of this act and that is stocked by the pharmacy, the ~~retail~~ usual and customary price that the pharmacy is currently charging for the prescription drug; and

(2) For each generic equivalent that is on the list compiled pursuant to section ~~2~~ 3 of this act and that is stocked by the pharmacy, the ~~retail~~ usual and customary price that the pharmacy is currently charging for the generic equivalent.

2. If a pharmacy ~~that is licensed under the provisions of this chapter~~ is not located within the State of Nevada, the pharmacy may, but is not required to, provide to the ~~Board~~ Department the information described in subsection 1.

3. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the parent company or corporation may provide to the ~~Board~~ Department the information described in subsection 1.

4. As used in this section, ~~“retail”~~ “usual and customary price” means the ~~price that an uninsured consumer, in the absence of any discount plan or other form of subsidy, would be required to pay to obtain:~~

~~(a) A 30-day supply of a prescription drug; or~~

~~(b) If a prescription drug is typically prescribed for a course of treatment that is of less than 30 days’ duration, a supply of the prescription drug sufficient to complete the typical course of treatment.]~~ usual and customary charges that a provider charges to the general public for a drug, as described in 42 C.F.R. § 447.331.

~~Sec. 4.]~~ Sec. 5. 1. Except as otherwise provided in subsection 2, the ~~Board~~ Department shall:

(a) Place or cause to be placed on the Internet website maintained by the ~~Board~~ Department the information provided by each pharmacy pursuant to section ~~3~~ 4 of this act;

~~(b) If a pharmacy maintains an Internet website, place or cause to be placed on the Internet website maintained by the Board a link to the pharmacy’s Internet website;~~

~~(c)]~~ Ensure that the information provided by each pharmacy pursuant to section ~~3~~ 4 of this act and placed on the Internet website maintained by

the ~~Board~~ Department is organized so that each individual pharmacy has its own separate entry on that website; and

~~(d)~~ (c) Ensure that the pricing information provided by each pharmacy pursuant to section ~~3~~ 4 of this act and placed on the Internet website maintained by the ~~Board~~ Department:

(1) Is presented in a manner which complies with the requirements of section ~~5~~ 6 of this act; and

(2) Is updated not less frequently than once each month.

2. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the ~~Board~~ Department may present the pricing information ~~relative~~ pertaining to such a pharmacy in such a manner that the pricing information is combined with the pricing information relative to other pharmacies that are part of the same company, corporation or chain, to the extent that the pricing information does not differ among those pharmacies.

3. The ~~Board~~ Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in subsection 1 in the manner in which it is presented by the ~~Board~~ Department may obtain that information:

(a) In the form of paper records;

(b) Through the use of a telephonic system; or

(c) Using other methods or technologies designed specifically to assist consumers who are hearing impaired or visually impaired.

~~Sec. 5.~~ Sec. 6. 1. Except as otherwise provided in this section, the ~~Board~~ Department shall ensure that the list of prescription drugs compiled pursuant to section ~~2~~ 3 of this act and the information that pharmacies provide pursuant to section ~~3~~ 4 of this act are combined and presented to consumers in such a manner that a consumer may easily compare the prices for particular prescription drugs, and their generic equivalents, that are currently charged by:

~~1.~~ (a) Pharmacies located within the same city, county or zip code in which the consumer resides;

~~2.~~ (b) Internet pharmacies; and

~~3.~~ (c) Pharmacies that provide mail order service to residents of Nevada.

↪ The requirements of ~~subsections 2 and 3~~ paragraphs (b) and (c) apply only to the extent that information regarding such pharmacies is made available to the ~~Board~~ Department.

2. As used in this section, "Internet pharmacy" has the meaning ascribed to it in NRS 639.00865.

~~Sec. 6.~~ Sec. 7. The ~~Board~~ Department and its members, officers and employees are not liable civilly or criminally for any act, omission, error or technical problem that results in:

1. The failure to provide to consumers information regarding a pharmacy, including, without limitation, the prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list compiled pursuant to section ~~(2)~~ 3 of this act; or

2. The providing to consumers of incorrect information regarding a pharmacy, including, without limitation, the prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list compiled pursuant to section ~~(2)~~ 3 of this act.

~~(Sec. 7)~~ Sec. 8. The ~~Board~~ Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 2 to ~~(9)~~ 10, inclusive, of this act. Such regulations must provide for, without limitation:

1. Notice to consumers stating that:

(a) Although the ~~Board~~ Department will strive to ensure that consumers receive accurate information regarding pharmacies, including, without limitation, the prices charged by those pharmacies for the prescription drugs and generic equivalents that are on the list compiled pursuant to section ~~(2)~~ 3 of this act, the ~~Board~~ Department is unable to guarantee the accuracy of such information;

(b) If a consumer follows an Internet link from the Internet website maintained by the ~~Board~~ Department to an Internet website maintained by a pharmacy, the ~~Board~~ Department is unable to guarantee the accuracy of any information made available on the Internet website maintained by the pharmacy; and

(c) The ~~Board~~ Department advises consumers to contact a pharmacy directly to verify the accuracy of any information regarding the pharmacy which is made available to consumers pursuant to sections 2 to ~~(9)~~ 10, inclusive, of this act;

2. Procedures adopted cooperatively with the Office of the Governor to direct consumers who have questions regarding the program described in sections 2 to 10, inclusive, of this act to contact the Office for Consumer Health Assistance in the Office of the Governor;

3. Provisions in accordance with which the Department will allow an Internet link to the information provided by each pharmacy pursuant to section 4 of this act and made available on the Department's Internet website to be placed on other Internet websites managed or maintained by other persons and entities, including, without limitation, Internet websites managed or maintained by:

(a) Pharmacies;

(b) Other governmental entities, including, without limitation, the State Board of Pharmacy and the Office of the Governor; and

(c) Nonprofit organizations and advocacy groups;

4. Procedures pursuant to which consumers and pharmacies may report to the ~~Board~~ Department that information made available to

consumers pursuant to sections 2 to ~~9,~~ 10, inclusive, of this act is inaccurate;

~~§ 5.~~ 5. The form and manner in which pharmacies are to provide to the ~~Board~~ Department the information described in section ~~3,~~ 4 of this act; and

~~§ 6.~~ 6. Standards and criteria pursuant to which the ~~Board~~ Department may remove from its Internet website information regarding a pharmacy or an Internet link to the Internet website maintained by a pharmacy, or both, if the ~~Board~~ Department determines that the pharmacy has:

(a) Ceased to be licensed and in good standing pursuant to ~~this chapter,~~ chapter 639 of NRS;

(b) Engaged in a pattern of providing to consumers information that is false or would be misleading to reasonably informed persons; or

(c) Violated any state or federal law governing the practice of pharmacy.

~~§ 8.~~ 9. The ~~Board~~ Department may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of sections 2 to ~~9,~~ 10, inclusive, of this act.

~~§ 9.~~ 10. If a pharmacy that is licensed under the provisions of ~~this~~ chapter 639 of NRS and is located within the State of Nevada fails to provide to the ~~Board~~ Department the information required to be provided pursuant to section ~~3,~~ 4 of this act or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the ~~Board~~ Department may impose against the pharmacy an administrative penalty of not more than \$500 for each day of such failure.

~~§ 10.~~ 11. NRS 639.2802 is hereby amended to read as follows:

639.2802 ~~Prescription~~ In addition to any applicable requirements set forth in sections 2 to ~~9,~~ 10, inclusive, of this act, prescription price information must be made available, upon request, by a pharmacist or practitioner who dispenses drugs.

~~§ 11.~~ 12. NRS 639.28025 is hereby amended to read as follows:

639.28025 ~~Every~~ In addition to any applicable requirements set forth in sections 2 to ~~9,~~ 10, inclusive, of this act, every practitioner who dispenses drugs shall post on the premises in a place conspicuous to customers and easily accessible and readable by customers a notice, provided by the Board, advising customers that a price list of drugs and professional services is available to them upon request.

~~§ 12.~~ 13. 1. There is hereby appropriated from the State General Fund to the ~~State Board of Pharmacy~~ **Department of Health and Human Services** for the purpose of allowing the ~~Board~~ **Department** to acquire such equipment, goods, services and technologies as may be

necessary for the ~~{Board}~~ **Department** to provide to consumers, by way of the ~~{Board's}~~ **Department's** Internet website, the information described in sections 2 to ~~{9,}~~ **10**, inclusive, of this act:

For the Fiscal Year 2007-2008 \$25,000

For the Fiscal Year 2008-2009 \$10,000

2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums 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. 13.}~~ **Sec. 14.** 1. This section and section ~~{12}~~ **13** of this act become effective upon passage and approval.

2. Sections 1 to ~~{11}~~ **12**, inclusive, of this act become effective on October 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 238.

Bill read second time.

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

Amendment No. 531.

AN ACT relating to tanning establishments; providing for the regulation of tanning establishments by the State Board of Cosmetology; prohibiting a person from operating a tanning establishment unless he is licensed with the Board; prescribing the requirements for licensure; providing standards for the operation of tanning establishments and tanning equipment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Board of Cosmetology regulates aestheticians, cosmetologists, electrologists, hair designers and manicurists. (Chapter 644 of NRS) This bill requires the Board to regulate operators of tanning establishments and tanning equipment. ~~{Section 8 of this bill creates the Tanning Establishment Advisory Committee to advise and assist the Board on matters relating to tanning establishments.}~~ Section 9 of this bill requires that an operator of a tanning establishment ensure that an operator of tanning equipment has sufficient knowledge and expertise regarding the operation of tanning equipment. Section 10 of this bill requires a person using a tanning establishment to sign a consent form before using a tanning

establishment for the first time. ~~[Sections 11 and 12]~~ **Section 11** of this bill ~~[place]~~ **places** restrictions on the use of tanning establishments by minors. Section 13 of this bill requires an operator of a tanning establishment to maintain a record on a person who uses tanning equipment at the tanning establishment. Section 14 of this bill requires an operator of a tanning establishment to provide information on the procedure to file a complaint with the Board.

Section 16 of this bill ~~expands~~ **alters** the membership of the Board ~~to include an~~ **so that one of the four members who are cosmetologists must also be an** operator of a tanning establishment. (NRS 644.030) Sections 17-20 of this bill expand the duties of the Board to include the regulation of tanning establishments. (NRS 644.090, 644.110-644.130) Section 21 of this bill prohibits a person from operating a tanning establishment without being licensed by the Board. (NRS 644.190) Sections 22, 23 and 25 of this bill provide for the licensure of a tanning establishment, including application, renewal and expiration. (NRS 644.325, 644.340, 644.350) Section 24 of this bill requires that a licensee to operate a tanning establishment notify the Board of any change in ownership, name or location of the tanning establishment. (NRS 644.345) Section 26 of this bill requires that a licensee display his license in plain view in the tanning establishment for which the license was issued. (NRS 644.360) Section 27 of this bill authorizes the sale of food and beverages in tanning establishments. (NRS 644.375) Section 28 of this bill authorizes the Board to take disciplinary action against tanning establishment licensees for failure to comply with the provisions of chapter 644 of NRS as amended. (NRS 644.430)

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

Section 1. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *"Operator of tanning equipment" means ~~fa person~~ an employee of a tanning establishment who engages in the practice of operating tanning equipment.*

Sec. 3. *"Practice of operating tanning equipment" means:*

1. *Controlling the amount of and duration of exposure to ultraviolet radiation emitted by tanning equipment; or*
2. *Providing instruction on the proper use of tanning equipment and other related equipment, including, without limitation, protective eyewear, a timer or handrails.*

Sec. 4. *"Sunburn and tanning history scale" means the following scale for the classification of skin types based on the skin's reaction to the first 10 to 45 minutes of sun exposure after winter:*

1. *Type 1: Always burns easily and never tans.*
2. *Type 2: Always burns easily and tans minimally.*
3. *Type 3: Burns moderately and tans gradually.*

4. *Type 4: Burns minimally and always tans well.*

5. *Type 5: Rarely burns and tans profusely.*

6. *Type 6: Never burns.*

Sec. 5. *"Tanning equipment" means any device that emits ultraviolet radiation for the purpose of tanning of human skin, including, without limitation, sunlamps, tanning booths and tanning beds.*

Sec. 6. *"Tanning establishment" means any premises, mobile unit, building or part of a building where access to tanning equipment is provided for a fee, membership dues or any other compensation.*

Sec. 7. *"Ultraviolet radiation" means electromagnetic radiation with a wavelength between 200 and 400 nanometers.*

Sec. 8. ~~1. The Tanning Establishment Advisory Committee to the Board consisting of five members is hereby created.~~

~~2. The Committee must consist of:~~

~~(a) Two physicians licensed to practice medicine in this State, appointed by the Governor;~~

~~(b) Two operators of tanning establishments licensed pursuant to NRS 644.340, appointed by the Governor; and~~

~~(c) One member of the Board, appointed by the President of the Board.~~

~~3. The Committee shall:~~

~~(a) Advise the Board on matters relating to tanning equipment, tanning establishments and operators of tanning equipment;~~

~~(b) Advise and assist the Board in drafting regulations for carrying out the provisions of this chapter relating to tanning equipment, tanning establishments and operators of tanning equipment;~~

~~(c) Make recommendations to the Board on methods for the appropriate inspection of tanning establishments and methods to monitor compliance with state and federal laws relating to tanning establishments; and~~

~~(d) Advise and assist the Board in identifying educational courses available in the State for the training of operators of tanning equipment and developing standards for the approval of such courses.] (Deleted by amendment.)~~

Sec. 9. 1. *An operator of a tanning establishment shall ensure that each operator of tanning equipment employed at the establishment:*

(a) Is at least 18 years of age; and

(b) Has sufficient knowledge and expertise in the operation of tanning equipment, including, without limitation, knowledge of:

(1) The provisions of this chapter relating to tanning equipment, tanning establishments and operators of tanning equipment, any regulations adopted pursuant thereto, and 21 C.F.R. § 1040.20;

(2) Any ultraviolet radiation exposure schedules recommended by the United States Food and Drug Administration;

(3) The procedures for the correct operation of the tanning establishment and all tanning equipment at the establishment;

(4) Possible injuries from overexposure to ultraviolet radiation and the procedures of the establishment in the event of emergency and nonemergency injuries from overexposure to ultraviolet radiation;

(5) The procedures recommended by the manufacturer of all tanning equipment used in the establishment, including the operation and maintenance of each such piece of equipment;

(6) The proper use of protective eyewear by users of tanning equipment;

(7) The biological effects and health risks of acute or chronic exposure to ultraviolet radiation;

(8) Photosensitizing agents; and

(9) The sunburn and tanning history scale.

2. The Board shall approve programs or courses used to train operators of tanning ~~equipment~~ establishments in the requirements of subsection 1.

3. An operator of a tanning establishment shall maintain at the establishment a list of the operators of tanning equipment employed by the operator of the tanning establishment that:

(a) Includes the date on which each operator of tanning equipment satisfied the requirements of subsection 1; and

(b) Is available for inspection by the Board.

4. Nothing in this section shall be construed to prohibit the operator of a tanning establishment from employing a person who is less than 18 years of age if such person is not an operator of tanning equipment.

Sec. 10. 1. An operator of a tanning establishment shall not allow a person to use tanning equipment for the first time unless ~~fr~~

~~(a) The warning described in subsection 2 has been read aloud to the person by an operator of tanning equipment; and~~

~~(b) A~~ a form containing the warning described in subsection ~~fr~~ 2 has been signed by the person.

2. The form required pursuant to subsection 1 must contain the sunburn and tanning history scale and a warning in substantially the following form in at least 12-point font:

DANGER: ULTRAVIOLET RADIATION

Follow instructions.

Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injuries and allergic reactions.

Repeated overexposure can cause skin cancer and premature aging of the skin.

Wear protective eyewear. Failure to wear protective eyewear may result in severe burns or long-term injury to the eyes.

Medication or cosmetics may increase your sensitivity to the ultraviolet radiation.

Consult a physician before using sunlamp or tanning equipment if you are using medications, have a history of skin problems or believe yourself to be especially sensitive to sunlight.

Sec. 11. 1. *An operator of a tanning establishment shall not allow a person who is less than 18 years of age to use tanning equipment unless a parent or guardian of the person:*

(a) Provides written consent to the operator of the tanning establishment for the person to use tanning equipment;

(b) Signs the form required pursuant to section 10 of this act; and

(c) Is present at the tanning establishment the first time that the person uses tanning equipment.

2. *The written consent of a parent or guardian provided to an operator of a tanning establishment pursuant to subsection 1 shall expire after ~~the person who is less than 18 years of age uses tanning equipment at the tanning establishment a total of 12 times.~~ 1 year.*

3. *A parent or guardian of a person who is less than 18 years of age may renew the written consent for a person who is less than 18 years of age to use tanning equipment at a tanning establishment.*

4. *An operator of tanning equipment must be present at the tanning establishment for the entire time while a person who is less than 18 years of age uses the tanning equipment.*

Sec. 12. ~~*In addition to the requirements of section 11 of this act, an operator of a tanning establishment shall not allow a person who is less than 14 years of age to use tanning equipment unless a physician licensed to practice medicine in this State has provided written authorization for the person to use tanning equipment.*~~ (Deleted by amendment.)

Sec. 13. 1. *The operator of a tanning establishment shall maintain a record of each person who uses tanning equipment at that establishment.*

2. *The record required pursuant to subsection 1 must include, without limitation:*

(a) Each date that the person uses tanning equipment at the tanning establishment;

(b) The amount and duration of each exposure of the person to ultraviolet radiation from tanning equipment;

(c) The form required to be signed by the person pursuant to section 10 of this act; and

(d) If the person is less than 18 years of age, the written consent signed by the parent or guardian of the person required pursuant to section 11 of this act. ~~and~~

~~*(e) If the person is less than 14 years of age, a copy of the written authorization of a physician for the person to use tanning equipment required pursuant to section 12 of this act.*~~

3. *The record required pursuant to this section must be maintained for at least ~~3 years.~~ 1 year after the most recent use by the person of tanning equipment at the tanning establishment.*

Sec. 14. *If a person files a complaint with the operator of a tanning establishment regarding the tanning establishment, an operator of tanning equipment or an injury from overexposure to ultraviolet radiation, the operator of the tanning establishment shall notify the person of the procedures for filing a complaint with the Board pursuant to this chapter.*

Sec. 15. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.029, inclusive, **and sections 2 to 7, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 16. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven ~~eight~~ members appointed by the Governor is hereby created.

2. The Board must consist of four cosmetologists, **one of whom must be an operator of a tanning establishment**, one manicurist, one aesthetician ~~one operator of a tanning establishment~~ and one member representing customers of cosmetology.

Sec. 17. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. License cosmetological establishments, ~~and~~ schools of cosmetology ~~and~~ **tanning establishments.**

4. Report to the proper prosecuting officers all violations of this chapter coming within its knowledge.

5. Inspect schools of cosmetology, ~~and~~ cosmetological establishments **and tanning establishments** to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 18. NRS 644.110 is hereby amended to read as follows:

644.110 The Board shall adopt reasonable regulations:

1. For carrying out the provisions of this chapter.

2. For conducting examinations of applicants for licenses.

3. For governing the recognition of, and the credits to be given to, the study of cosmetology under a licensed electrologist or in a school of cosmetology licensed pursuant to the laws of another state or territory of the United States or the District of Columbia.

4. For governing the conduct of schools of cosmetology. The regulations must include, but need not be limited to, provisions:

(a) Prohibiting schools from requiring that students purchase beauty supplies for use in the course of study;

(b) Prohibiting schools from deducting earned hours of school credit or any other compensation earned by a student as a punishment for misbehavior of the student;

(c) Providing for lunch and coffee recesses for students during school hours; and

(d) Allowing a member or an authorized employee of the Board to review the records of a student's training and attendance.

5. Governing the courses of study and practical training required of persons for treating the skin of the human body, except the scalp.

6. For governing the conduct of cosmetological establishments.

7. For governing the conduct of tanning establishments.

Sec. 19. NRS 644.120 is hereby amended to read as follows:

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases in cosmetological establishments, **tanning establishments** or schools of cosmetology, or in the practice of a cosmetologist ~~or~~ **or the practice of operating tanning equipment.**

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, **tanning establishment**, school of cosmetology or practice of cosmetology.

Sec. 20. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every manicurist, electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments, **tanning establishments** and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 21. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, **tanning establishment**, school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless he is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in subsection 4, it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or

any branch thereof, whether for compensation or otherwise, unless he is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

(f) An operator of tanning equipment from operating tanning equipment in accordance with section 9 of this act.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

Sec. 22. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

- (a) Made on a form prescribed and furnished by the Board;
- (b) Made on or before the date for renewal specified by the Board;
- (c) Accompanied by the fee for renewal; and
- (d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For manicurists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than \$50 and not more than \$100.

(b) For instructors, not less than \$60 and not more than \$100.

(c) For cosmetological establishments ~~{-}~~ ***and tanning establishments***, not less than \$100 and not more than \$200.

(d) For schools of cosmetology, not less than \$500 and not more than \$800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and

collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for a cosmetological establishment *or tanning establishment* and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, manicurist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

Sec. 23. NRS 644.340 is hereby amended to read as follows:

644.340 1. Any person wishing to operate a cosmetological establishment in which any one or a combination of the occupations of cosmetology are practiced *or wishing to operate a tanning establishment* must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed cosmetological establishment *or tanning establishment* and proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the cosmetological establishment *or tanning establishment* complies with the requirements of this chapter and the regulations adopted by the Board. If, based on the verbal review, the Board determines that the cosmetological establishment *or tanning establishment* meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the cosmetological establishment *or tanning establishment* not later than 90 days after the date on which the license is activated.

3. The fee for a license for a cosmetological establishment *or tanning establishment* is \$200. The fee for the initial inspection is \$15. If an additional inspection is necessary, the fee is \$25.

Sec. 24. NRS 644.345 is hereby amended to read as follows:

644.345 1. The Board must be notified of any change of ownership, name, services offered or location of a cosmetological establishment ~~or~~ *or tanning establishment*. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the fees established pursuant to subsection 3 *or 4* of NRS 644.340 ~~or~~, *as applicable*.

2. After a license has been issued for the operation of a cosmetological establishment ~~or~~ *or tanning establishment*, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 25. NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment *or tanning establishment* expires on July 1 of the next succeeding odd-numbered year.

2. If a cosmetological establishment *or tanning establishment* fails to pay the required fee by October 1 of the year in which renewal of the license is required, the establishment must be immediately closed.

Sec. 26. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

2. *Every holder of a license issued by the Board to operate a tanning establishment shall display the license in plain view of members of the general public in the tanning establishment for which the license was issued.*

3. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed manicurists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists at his establishment to provide cosmetological services. This subsection does not prohibit an operator of a cosmetological establishment from:

(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection ~~{3-}~~ 4. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

~~{3-}~~ 4. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

~~{4-}~~ 5. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 27. NRS 644.375 is hereby amended to read as follows:

644.375 Food or beverages for immediate consumption may be sold in a cosmetological *or tanning* establishment.

Sec. 28. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of a cosmetological establishment, *an operator of a tanning establishment*, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, manicurist, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology ~~[-]~~ *or the practice of operating tanning equipment*.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological *or tanning* establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

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

Sec. 29. ~~[As soon as is practicable after]~~ **After** the passage and approval of this act ~~and~~ **and upon the first vacancy in the State Board of Cosmetology of a position on the Board that must be filled by a cosmetologist pursuant to the provisions of NRS 644.030,** the Governor shall appoint one **cosmetologist who is an** operator of a tanning establishment ~~[, whose term begins on October 1, 2007,]~~ to the ~~[State] Board [of Cosmetology]~~ in accordance with the provisions of NRS 644.030, as amended by section 16 of this act.

Sec. 30. 1. This section and ~~[section]~~ **sections 16 and 29** of this act become effective upon passage and approval for the purpose of appointing the member to the State Board of Cosmetology and on October 1, ~~[2007,]~~ **2008**, for all other purposes.

2. Sections 1 to **15, inclusive, and 17 to 28**, inclusive, of this act become effective on October 1, ~~[2007,]~~ **2008**.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 255.

Bill read second time.

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

Amendment No. 239.

AN ACT relating to housing; providing for the creation and maintenance of a statewide low-income housing database; providing ~~[under certain circumstances for the reporting of available rental housing that is suitable for persons with disabilities,]~~ **for the maintenance of the Nevada Housing Registry;** creating new definitions of “affordable housing” and “attainable housing”; revising old definitions of “affordable housing”; revising provisions relating to “affordable housing” to include new definitions of “affordable housing” and “attainable housing”; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law contains numerous provisions relating to “affordable housing.” (Chapters 233J, 244, 244A, 268, 277, 278, 279, 279A, 279B, 319, 349 and 375 of NRS).

Section 2 of this bill creates a new definition for “affordable housing” as housing affordable for a family with an income of 80 percent or less of their county median income. Section 18 of this bill creates a new definition for “attainable housing” as housing affordable for a family with an income of more than 80 percent but equal to or less than 120 percent of their county median income. Sections 6-17 and 19-45 of this bill make necessary amendments so that these new definitions apply throughout most of NRS.

Sections 3 and 4 of this bill provide for the creation and maintenance of a statewide low-income housing database. **Sections 2.3 and 4 of this bill**

recognize the existence of the Nevada Housing Registry and provide for its maintenance. Section 5 of this bill requires that owners of residential rental units that are receiving or have received government money for those housing units must ~~[annually] report [which of those units are available and suitable for persons with disabilities.]~~ **certain information regarding those units on a quarterly basis.**

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

Section 1. Chapter 319 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Affordable housing" means housing affordable for a family with a total gross income equal to or less than 80 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.*

Sec. 2.1. *"Consortia" means the consortia described in 42 U.S.C. § 12746.*

Sec. 2.3. *"Nevada Housing Registry" means the housing registry maintained as a joint project of:*

1. The Office of Disability Services created pursuant to NRS 426.235; and

2. The State Council on Developmental Disabilities established in this State pursuant to section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. § 15025.

Sec. 2.7. *"Nevada Low-Income Housing Database" means the database created and maintained pursuant to section 3 of this act.*

Sec. 3. *1. The demographer employed pursuant to NRS 360.283 shall provide for the creation and maintenance of a statewide low-income housing database ~~to~~ to be known as the Nevada Low-Income Housing Database.*

2. The Database must include, without limitation, the compilation and analysis of demographic, economic and housing data from a variety of sources that:

(a) Provides for an annual assessment of the affordable housing market at the city and county level, including data relating to housing units, age of housing, rental rates and rental vacancy rates, new home sales and resale of homes, new construction permits, mobile homes, lots available for mobile homes, and conversions of multifamily condominiums;

(b) Addresses the housing needs of various population groups in Nevada, such as households that rent, homeowners, elderly households, veterans, persons with disabilities or special needs, homeless persons, recovering drug abusers, persons suffering from mental health ailments and abused women, with each group broken down to show the percentage of the population group at different income levels, and a determination of

the number of households within each special needs group experiencing housing costs greater than 50 percent of their income, overcrowding or substandard housing;

(c) Contains an estimate of the number and condition of subsidized and other low-income housing units at the county level and the identification of any subsidized units that are forecast to convert to market-rate units within a 2-year planning period;

(d) Provides a demographic and economic overview by local and county jurisdiction, if feasible, for the population of Nevada, including age, race and ethnicity, household size, migration, current and forecast employment, household income and a summary relating to the effects of demographics and economic factors on housing demand;

(e) Provides the number of housing units available to a victim of domestic violence from any housing authority, as defined in NRS 315.021, and from participation in the program of housing assistance pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f; and

(f) Provides the number of terminations of victims of domestic violence in this State from the program of housing assistance pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f.

3. The Database created pursuant to this section must provide sufficient information to satisfy the requirements imposed by 24 C.F.R. Part 91 upon all relevant consortia and jurisdictions of this State.

Sec. 4. 1. The costs of the Nevada Housing Registry must be paid from the Account for Low-Income Housing created pursuant to NRS 319.500. The amount used for the Registry must not exceed \$50,000 per year.

2. The costs of the ~~database described in section 3 of this act~~ Nevada Low-Income Housing Database must be paid from the Account for Low-Income Housing created pursuant to NRS 319.500. The amount used for the Database must not exceed ~~(\$175,000)~~ \$250,000 per year.

Sec. 5. If an owner of residential housing that is accessible or affordable and is available for rent or lease in this State has received any loans, grants or contributions for the residential housing from the Federal Government, the State or any public body, the owner shall ~~(annually)~~, not less than quarterly, report to the Office of Disability Services ~~(of the Department of Health and Human Services all of those residential housing units which are available and suitable for persons with disabilities.)~~ created pursuant to NRS 426.235, information to include the following:

1. Whether the housing is currently vacant or occupied;
2. The number of persons, if any, who are currently on a waiting list to rent or lease the housing;
3. The current duration of the waiting list to rent or lease the housing; and
4. Such additional information as the Office of Disability Services may direct, to allow a determination of whether a particular unit of housing

may be appropriate for occupancy by persons in different demographic groups, including those based on income, age, level of disability, family size or any other relevant factors.

Sec. 6. NRS 319.030 is hereby amended to read as follows:

319.030 As used in this chapter, the words and terms defined in NRS 319.040 to 319.135, inclusive, ~~and ~~section~~ sections 2, 2.1, 2.3 and 2.7 of this act~~ have the meanings ascribed to them in those sections.

Sec. 6.5. NRS 319.060 is hereby amended to read as follows:

319.060 "Eligible family" means a person or family, selected without regard to race, creed, national origin or sex, determined by the Division to require such assistance as is made available by this chapter on account of insufficient personal or family income after taking into consideration, without limitation, such factors as:

1. The amount of the total income of that person or family available for housing needs;
2. The size of the family;
3. The cost and condition of housing facilities available;
4. The ability of the person or family to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing;
5. If appropriate, standards established for various federal programs determining eligibility based on income of those persons and families; and
6. Service in the Armed Forces of the United States with a minimum of 90 days on active duty at some time between:
 - (a) April 21, 1898, and June 15, 1903;
 - (b) April 6, 1917, and November 11, 1918;
 - (c) December 7, 1941, and December 31, 1946;
 - (d) June 25, 1950, and January 31, 1955; ~~for~~
 - (e) January 1, 1961, and May 7, 1975; ~~for~~;
 - (f) August 2, 1990, and April 3, 1991; or**
 - (g) September 11, 2001, and the date on which the Federal Government declares officially that the War on Terror has ended.**

↪ and at least 2 years' continuous residence in Nevada immediately preceding any application for assistance under this chapter.

Sec. 7. NRS 319.147 is hereby amended to read as follows:

319.147 1. The Division shall certify an assisted living facility for the purpose of providing services pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708 if the facility:

- (a) Provides assisted living supportive services to senior citizens of low or moderate income;
- (b) Provides or arranges for the provision of case management services for its residents;
- (c) Guarantees ~~affordable~~ housing **for persons of low or moderate income** for a period of at least 15 years after the facility is certified;

(d) Is financed through tax credits relating to low-income housing or other public funds; and

(e) Satisfies any other requirements set forth by the Division in any regulations adopted by the Division.

2. The Division shall adopt regulations concerning the certification of assisted living facilities pursuant to this section.

3. As used in this section:

(a) "Assisted living facility" has the meaning ascribed to it in paragraph (a) of subsection 3 of NRS 422.2708.

(b) "Assisted living supportive services" has the meaning ascribed to it in paragraph (b) of subsection 3 of NRS 422.2708.

Sec. 8. NRS 319.510 is hereby amended to read as follows:

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

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

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

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

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

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

2. Except as otherwise provided in this subsection, the Division may expend not more than 6 percent of the money ~~from~~ in the Account as reimbursement for the necessary costs ~~of efficiently administering~~ for the Division to:

(a) Efficiently administer the Account ~~and any money received pursuant to 42 U.S.C. §§ 12701 et seq. In no case may the Division expend more than \$40,000 per year or an amount equal to 6 percent of any money made available to the State pursuant to 42 U.S.C. §§ 12701 et seq., whichever is greater.~~

~~In addition, the Division may expend money from the Account as required by section 4 of this act. Of the~~ ;

(b) Administer money in the Account that the Division allocates to local jurisdictions and consortia; and

(c) Pay the necessary administrative costs associated with programs the Division, local jurisdictions and consortia may fund with money from the Account.

3. The remaining money allocated from the Account is:

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

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

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

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

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

~~(b)~~ , after the expenditures authorized pursuant to subsection 2, must be allocated as follows:

(a) Before the distribution of money for the purposes set forth in paragraphs (b) and (c), the Division must pay the necessary costs for:

(1) That portion of any Homeless Management Information System which is required by, but not paid for by, the Department of Housing and Urban Development;

(2) An amount not to exceed \$50,000 per year to pay for the costs described in subsection 1 of section 4 of this act; and

(3) An amount not to exceed \$250,000 per year to pay for the costs described in subsection 2 of section 4 of this act.

(b) Fifteen percent of the amount remaining after the expenditures required pursuant to paragraph (a) must be distributed to public or private nonprofit organizations, housing authorities and local governments for activities to prevent homelessness, including, but not limited to, assistance relating to emergency housing. All such money must be used to benefit persons and families with a total gross income equal to or less than 60 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.

(c) Eighty-five percent of the amount remaining after the expenditures required pursuant to paragraph (a) must be distributed to public or private nonprofit charitable organizations, housing authorities and local governments

for the ~~acquisition, construction and rehabilitation of housing for eligible families,~~ **purposes described in paragraphs (a), (b), (c) and (e) of subsection 1,** subject to the following:

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

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

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

(4) ~~All~~ **Except as otherwise provided in this subparagraph, all** money must be used to benefit families ~~[whose income does not exceed 60 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.]~~ **eligible for affordable housing. Money that is deposited in the Account pursuant to paragraph (a) of subsection 1 of NRS 375.070 must be used to benefit families with a total gross income equal to or less than 60 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.**

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

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

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

4. As used in this section, "Homeless Management Information System" means an information system described in Homeless Management Information Systems (HMIS) Data and Technical Standards Notice; Notice, as issued by the Department of Housing and Urban Development in 68 Federal Register 43,430 on July 22, 2003.

Sec. 9. Chapter 233J of NRS is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this act.

Sec. 10. *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 233J.010 and sections 11 and 12 of this act have the meanings ascribed to them in those sections.*

Sec. 11. *"Affordable housing" has the meaning ascribed to it in section 2 of this act.*

Sec. 12. ***"Attainable housing" has the meaning ascribed to it in section 18 of this act.***

Sec. 13. NRS 233J.010 is hereby amended to read as follows:

233J.010 ~~[As used in this chapter, unless the context otherwise requires,]~~
"Commission" means the Nevada Commission on Minority Affairs created by NRS 233J.020.

Sec. 14. NRS 233J.060 is hereby amended to read as follows:

233J.060 The Commission shall, within the limits of available money:

1. Study matters affecting the social and economic welfare and well-being of minorities residing in the State of Nevada;
2. Collect and disseminate information on activities, programs and essential services available to minorities in the State of Nevada;
3. Study the:
 - (a) Availability of employment for minorities in this State, and the manner in which minorities are employed;
 - (b) Manner in which minorities can be encouraged to start and manage their own businesses successfully; and
 - (c) Availability of affordable housing ***and attainable housing*** for minorities;
4. In cooperation with the Nevada Equal Rights Commission, act as a liaison to inform persons regarding:
 - (a) The laws of this State that prohibit discriminatory practices; and
 - (b) The procedures pursuant to which aggrieved persons may file complaints or otherwise take action to remedy such discriminatory practices;
5. To the extent practicable, strive to create networks within the business community between businesses that are owned by minorities and businesses that are not owned by minorities;
6. Advise the Governor on matters relating to minorities and of concern to minorities; and
7. Recommend proposed legislation to the Governor.

Sec. 15. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 16, 17 and 18 of this act.

Sec. 16. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 17 and 18 of this act have the meanings ascribed to them in those sections.***

Sec. 17. ***"Affordable housing" has the meaning ascribed to it in section 2 of this act.***

Sec. 18. ***"Attainable housing" means housing affordable for a family with a total gross income greater than 80 percent and equal to or less than 120 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.***

Sec. 19. NRS 244.189 is hereby amended to read as follows:

244.189 1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, a board of county commissioners may exercise such powers and enact such ordinances, not in conflict with the provisions of NRS or other laws or regulations of this State, as the board determines are necessary and proper for:

- (a) The development of affordable housing ~~{+}~~ **and attainable housing;**
- (b) The control and protection of animals;
- (c) The rehabilitation of rental property in residential neighborhoods; and
- (d) The rehabilitation of abandoned residential property.

2. The board of county commissioners shall not impose or increase a tax unless the tax or increase is otherwise authorized by specific statute.

3. The board of county commissioners may, in lieu of a criminal penalty, provide a civil penalty for a violation of an ordinance enacted pursuant to this section unless state law provides a criminal penalty for the same act or omission.

Sec. 20. NRS 244.287 is hereby amended to read as follows:

244.287 1. A nonprofit organization may submit to a board of county commissioners an application for conveyance of property that is owned by the county if the property was:

- (a) Received by donation for the use and benefit of the county pursuant to NRS 244.270.
- (b) Purchased by the county pursuant to NRS 244.275.

2. Before the board of county commissioners makes a determination on such an application for conveyance, it shall hold at least one public hearing on the application. Notice of the time, place and specific purpose of the hearing must be:

(a) Published at least once in a newspaper of general circulation in the county.

(b) Mailed to all owners of record of real property which is located not more than 300 feet from the property that is proposed for conveyance.

(c) Posted in a conspicuous place on the property that is proposed for conveyance.

↪ The hearing must be held not ~~{fewer}~~ **less** than 10 days but not more than 40 days after the notice is published, mailed and posted in accordance with this subsection.

3. The board of county commissioners may approve such an application for conveyance if the nonprofit organization demonstrates to the satisfaction of the board that the organization or its assignee will use the property to develop affordable housing ~~{for families whose income at the time of application for such housing does not exceed 80 percent of the median gross income for families residing in the same county, as that percentage is defined by the United States Department of Housing and Urban Development.}~~ **or attainable housing.** If the board of county commissioners receives more than one application for conveyance of the property, the board must give priority to an application of a nonprofit organization that demonstrates to the

satisfaction of the board that the organization or its assignee will use the property to develop affordable housing *or attainable housing* for persons who are disabled or elderly.

4. If the board of county commissioners approves an application for conveyance, it may convey the property to the nonprofit organization without consideration. Such a conveyance must not be in contravention of any condition in a gift or devise of the property to the county.

5. As a condition to the conveyance of the property pursuant to subsection 4, the board of county commissioners shall enter into an agreement with the nonprofit organization that requires the nonprofit organization or its assignee to use the property to provide affordable housing *or attainable housing, as applicable*, for at least 50 years. If the nonprofit organization or its assignee fails to use the property to provide affordable housing *or attainable housing, as applicable*, pursuant to the agreement, the board of county commissioners may take reasonable action to return the property to use as affordable housing *or attainable housing, as applicable*, including, without limitation:

(a) Repossessing the property from the nonprofit organization or its assignee.

(b) Transferring ownership of the property from the nonprofit organization or its assignee to another person or governmental entity that will use the property to provide affordable housing *or attainable housing, as applicable*.

6. The agreement required by subsection 5 must be recorded in the office of the county recorder of the county in which the property is located and must specify:

(a) The number of years for which the nonprofit organization or its assignee must use the property to provide affordable housing *or attainable housing, as applicable*; and

(b) The action that the board of county commissioners will take if the nonprofit organization or its assignee fails to use the property to provide affordable housing *or attainable housing, as applicable*, pursuant to the agreement.

7. A board of county commissioners that has conveyed property pursuant to subsection 4 shall:

(a) Prepare annually a list which includes a description of all property that was conveyed to a nonprofit organization pursuant to this section; and

(b) Include the list in the annual audit of the county which is conducted pursuant to NRS 354.624.

8. If, 5 years after the date of a conveyance pursuant to subsection 4, a nonprofit organization or its assignee has not commenced construction of affordable housing *or attainable housing, as applicable*, or entered into such contracts as are necessary to commence the construction of affordable housing *or attainable housing, as applicable*, the property that was conveyed automatically reverts to the county.

9. A board of county commissioners may subordinate the interest of the county in property conveyed pursuant to subsection 4 to a first or subsequent holder of a mortgage on that property to the extent the board deems necessary to promote investment in the construction of affordable housing ~~[-] or attainable housing, as applicable.~~

10. As used in this section, unless the context otherwise requires, “nonprofit organization” means an organization that is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3).

Sec. 21. NRS 268.058 is hereby amended to read as follows:

268.058 1. A nonprofit organization may submit to the governing body of a city an application for conveyance of property that is owned by the city if the property was purchased or received by the city pursuant to NRS 268.008.

2. Before the governing body makes a determination on such an application for conveyance, it shall hold at least one public hearing on the application. Notice of the time, place and specific purpose of the hearing must be:

(a) Published at least once in a newspaper of general circulation in the city.

(b) Mailed to all owners of record of real property which is located not more than 300 feet from the property that is proposed for conveyance.

(c) Posted in a conspicuous place on the property that is proposed for conveyance.

↪ The hearing must be held not ~~fewer~~ *less* than 10 days but not more than 40 days after the notice is published, mailed and posted in accordance with this subsection.

3. The governing body may approve such an application for conveyance if the nonprofit organization demonstrates to the satisfaction of the governing body that the organization or its assignee will use the property to develop affordable housing ~~{for families whose income at the time of application for such housing does not exceed 80 percent of the median gross income for families residing in the same city, as that percentage is defined by the United States Department of Housing and Urban Development.}~~ *or attainable housing*. If the governing body receives more than one application for conveyance of the property, the governing body must give priority to an application of a nonprofit organization that demonstrates to the satisfaction of the governing body that the organization or its assignee will use the property to develop affordable housing *or attainable housing* for persons who are disabled or elderly.

4. If the governing body approves an application for conveyance, it may convey the property to the nonprofit organization without consideration. Such a conveyance must not be in contravention of any condition in a gift or devise of the property to the city.

5. As a condition to the conveyance of the property pursuant to subsection 4, the governing body shall enter into an agreement with the

nonprofit organization that requires the nonprofit organization or its assignee to use the property to provide affordable housing *or attainable housing, as applicable*, for at least 50 years. If the nonprofit organization or its assignee fails to use the property to provide affordable housing *or attainable housing, as applicable*, pursuant to the agreement, the governing body may take reasonable action to return the property to use as affordable housing ~~or~~ *or attainable housing, as applicable*, including, without limitation:

(a) Repossessing the property from the nonprofit organization or its assignee.

(b) Transferring ownership of the property from the nonprofit organization or its assignee to another person or governmental entity that will use the property to provide affordable housing ~~or~~ *or attainable housing, as applicable*.

6. The agreement required by subsection 5 must be recorded in the office of the county recorder of the county in which the property is located and must specify:

(a) The number of years for which the nonprofit organization or its assignee must use the property to provide affordable housing ~~or~~ *or attainable housing, as applicable*; and

(b) The action that the governing body will take if the nonprofit organization or its assignee fails to use the property to provide affordable housing *or attainable housing, as applicable*, pursuant to the agreement.

7. A governing body that has conveyed property pursuant to subsection 4 shall:

(a) Prepare annually a list which includes a description of all property conveyed to a nonprofit organization pursuant to this section; and

(b) Include the list in the annual audit of the city which is conducted pursuant to NRS 354.624.

8. If, 5 years after the date of a conveyance pursuant to subsection 4, a nonprofit organization or its assignee has not commenced construction of affordable housing ~~or~~ *or attainable housing, as applicable*, or entered into such contracts as are necessary to commence the construction of affordable housing ~~or~~ *or attainable housing, as applicable*, the property that was conveyed automatically reverts to the city.

9. A governing body may subordinate the interest of the city in property conveyed pursuant to subsection 4 to a first or subsequent holder of a mortgage on that property to the extent the governing body deems necessary to promote investment in the construction of affordable housing ~~or~~ *or attainable housing, as applicable*.

10. As used in this section, unless the context otherwise requires, "nonprofit organization" means an organization that is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3).

11. As used in this section:

(a) "*Affordable housing*" has the meaning ascribed to it in section 2 of this act; and

(b) "Attainable housing" has the meaning ascribed to it in section 18 of this act.

Sec. 22. NRS 268.190 is hereby amended to read as follows:

268.190 Except as otherwise provided by law, the city planning commission may:

1. Recommend and advise the city council and all other public authorities concerning:

(a) The laying out, widening, extending, paving, parking and locating of streets, sidewalks and boulevards.

(b) The betterment of housing and sanitary conditions, and the establishment of zones or districts within which lots or buildings may be restricted to residential use, or from which the establishment, conduct or operation of certain business, manufacturing or other enterprises may be excluded, and limiting the height, area and bulk of buildings and structures therein.

2. Recommend to the city council and all other public authorities plans and regulations for the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, which must include for each city a population plan if required by NRS 278.170 and a plan for the development of affordable housing ~~[-]~~ **and attainable housing.**

3. Perform any other acts and things necessary or proper to carry out the provisions of NRS 268.110 to 268.220, inclusive, and in general to study and propose such measures as may be for the municipal welfare and in the interest of protecting the municipal area's natural resources from impairment.

4. As used in this section:

(a) "Affordable housing" has the meaning ascribed to it in section 2 of this act; and

(b) "Attainable housing" has the meaning ascribed to it in section 18 of this act.

Sec. 23. NRS 277.360 is hereby amended to read as follows:

277.360 1. A regional development district may establish a nonprofit corporation for any purpose for which the district is authorized to act pursuant to NRS 277.300 to 277.390, inclusive, including increasing the supply of affordable housing **and attainable housing** and improving opportunities for home ownership in a development region. A nonprofit corporation formed pursuant to this section may, among other things, acquire land and buildings, accept private, state and federal grant and loan funds, construct and rehabilitate housing units, and buy, sell or manage housing within the boundaries of the development district.

2. A regional development district may receive and administer private, state and federal affordable housing **and attainable housing** funds to increase the supply of affordable housing **and attainable housing** and to improve opportunities for home ownership within the boundaries of the district. The creation of a regional development district does not affect the

right of a county or city to receive and administer affordable housing *or attainable housing* funds or to develop and implement subregional affordable housing *or attainable housing* programs.

3. As used in this section:

(a) *"Affordable housing" has the meaning ascribed to it in section 2 of this act.*

(b) *"Attainable housing" has the meaning ascribed to it in section 18 of this act.*

Sec. 24. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

"Attainable housing" has the meaning ascribed to it in section 18 of this act.

Sec. 25. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 24 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, *and section 24 of this act* have the meanings ascribed to them in those sections.

Sec. 26. NRS 278.0105 is hereby amended to read as follows:

278.0105 *"Affordable housing" [means housing affordable for a family with a total gross income less than 110 percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.] has the meaning ascribed to it in section 2 of this act.*

Sec. 27. NRS 278.020 is hereby amended to read as follows:

278.020 1. For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing bodies of cities and counties are authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures.

2. Any such regulation, restriction and control must take into account:

(a) The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

(b) The availability of and need for affordable housing *and attainable housing* in the community, including affordable housing *and attainable housing* that is accessible to persons with disabilities.

Sec. 28. 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) Consist of more than one section; and
- (5) 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 ~~[-]~~ **or attainable housing**, including, without limitation, the use of manufactured homes for affordable housing ~~[-]~~ **or attainable 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.

Sec. 29. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may

include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

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

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

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

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

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

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing.

(2) An inventory of affordable housing *and attainable housing* in the community.

(3) An analysis of the demographic characteristics of the community.

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

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

(6) An analysis of the characteristics of the land that is the most appropriate for the construction of affordable housing ~~[-]~~ *and attainable housing*.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing *and attainable housing* or the conversion or rehabilitation of existing housing to affordable housing ~~[-]~~ *or attainable housing*.

(8) A plan for maintaining and developing affordable housing *and attainable housing* to meet the housing needs of the community.

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

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

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

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

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

(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

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

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

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

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

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

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

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

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

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

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, **and section 24 of this act** prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 30. NRS 278.230 is hereby amended to read as follows:

278.230 1. Except as otherwise provided in subsection 4 of NRS 278.150, whenever the governing body of any city or county has adopted a master plan or part thereof for the city or county, or for any major section or district thereof, the governing body shall, upon recommendation of the planning commission, determine upon reasonable and practical means for putting into effect the master plan or part thereof, in order that the same will serve as:

(a) A pattern and guide for that kind of orderly physical growth and development of the city or county which will cause the least amount of natural resource impairment and will conform to the adopted population plan, where required, and ensure an adequate supply of housing, including affordable housing ~~[-]~~ **and attainable housing**; and

(b) A basis for the efficient expenditure of funds thereof relating to the subjects of the master plan.

2. The governing body may adopt and use such procedure as may be necessary for this purpose.

Sec. 31. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, **and section 24 of this act**, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive ~~[-]~~, **and section 24 of this act**. Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

(a) To preserve the quality of air and water resources.

(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.

(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.

(e) To provide for recreational needs.

(f) To protect life and property in areas subject to floods, landslides and other natural disasters.

(g) To conform to the adopted population plan, if required by NRS 278.170.

(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.

(i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(k) To promote health and the general welfare.

(l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing ~~+~~ **and attainable housing.**

(m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods.

(n) To promote systems which use solar or wind energy.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing ~~+~~ **or attainable housing.**

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds

residential dwellings to build a certain percentage of those dwellings as affordable housing ~~{ }~~ **or attainable housing.**

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 32. Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 33 and 34 of this act.

Sec. 33. **"Affordable housing" has the meaning ascribed to it in section 2 of this act.**

Sec. 34. **"Attainable housing" has the meaning ascribed to it in section 18 of this act.**

Sec. 35. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, **and sections 33 and 34 of this act**, unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, **and sections 33 and 34 of this act** have the meanings ascribed to them in those sections.

Sec. 36. NRS 279.397 is hereby amended to read as follows:

279.397 "Low-income household" means a household ~~{ }~~ which may include one or more persons ~~{, whose total gross income is less than 80 percent of the median gross income for households of the same size within the same geographic region.}~~ **and which is eligible for affordable housing or attainable housing.**

Sec. 37. NRS 279.425 is hereby amended to read as follows:

279.425 It is further found and declared that:

1. The provision of housing is a fundamental purpose of the Community Redevelopment Law and that a generally inadequate supply of decent, safe and sanitary housing available to low-income households threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including, without limitation, creating new employment opportunities, attracting new private investments of money in the area and creating physical, economic, social and environmental conditions to remove and prevent the recurrence of blight.

2. The provision and improvement of housing which can be rented or sold to families with low incomes and which is inside or outside the boundaries of the redevelopment area can be of direct benefit to the redevelopment area in assisting the accomplishment of project objectives whether or not the redevelopment plan provides for housing within the project area.

3. The provision of affordable housing **and attainable housing** by redevelopment agencies and the use of taxes allocated to the agency pursuant thereto is of statewide benefit and assistance to all local governmental agencies in the areas where housing is provided.

Sec. 38. NRS 279A.010 is hereby amended to read as follows:

279A.010 The Legislature hereby finds and declares that:

1. There exists within the urban areas of this State a large number of deteriorated, substandard and unsanitary residential properties because of the inability of their owners, for whatever reason, to pay for their repair and maintenance;

2. These properties are a threat not only to the health, safety and well-being of the persons who occupy them but also to neighboring persons and property;

3. There is also a shortage of decent ~~[safe]~~ and *safe* affordable housing ~~[for persons of low or moderate income]~~ **and attainable housing** and the counties and cities of this State have an obligation to encourage persons who own residential property to maintain that property in a decent, safe and sanitary condition;

4. It is in the public interest to encourage the preservation and maintenance of **affordable housing and attainable** housing in this State, ~~[for persons of low or moderate income]~~ in order to improve ~~[their]~~ living conditions and, in doing so, to benefit the health, safety and welfare of the people of this State; and

5. The provisions of this chapter are in addition to, and do not abrogate or limit the application of, any other provisions of law granting to a county or city the authority to:

(a) Develop affordable housing ~~[+]~~ **and attainable housing**; and

(b) Rehabilitate residential neighborhoods and individual properties within those neighborhoods.

Sec. 39. NRS 279A.020 is hereby amended to read as follows:

279A.020 As used in this chapter, unless the context otherwise requires:

1. **"Affordable housing" has the meaning ascribed to it in section 2 of this act.**

2. "Agency" means an agency of a county or city established or designated to administer a program.

~~[2.]~~ 3. **"Attainable housing" has the meaning ascribed to it in section 18 of this act.**

4. "Fund" means a revolving fund for loans for the rehabilitation of residential property.

~~[3.]~~ 5. "Governing body" means the governing body of a county or city.

~~[4.]~~ 6. "Program" means a program for the rehabilitation of residential neighborhoods established by a governing body pursuant to this chapter.

~~[5.]~~ 7. "Rehabilitation" includes structural improvements, landscaping and any other measure to improve the appearance of property or maintain property in a decent, safe and sanitary condition.

Sec. 40. NRS 279A.040 is hereby amended to read as follows:

279A.040 1. An applicant for a loan for the rehabilitation of residential property must, at the time application is made:

(a) Be a natural person who:

(1) Is a resident of or an owner of residential property in the city or an unincorporated area of the county, as the case may be;

(2) Is a member of a household ~~having a gross income of less than 80 percent of the median gross income for households of the same size residing in the same county or city, as applicable, as that percentage is defined by the United States Department of Housing and Urban Development, or rents residential property to such households;~~ **eligible for affordable housing or attainable housing;**

(3) Owns and resides on or rents for residential purposes only the property for which the loan is sought;

(4) Has the financial resources to repay the loan in accordance with the terms of the agreement;

(5) Has the ability to complete the rehabilitation within a reasonable time and maintain the property in a decent, safe and sanitary condition; and

(6) Meets such other requirements as are imposed by the governing body; or

(b) Be an organization that:

(1) Is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3) or 501(c)(4);

(2) Provides affordable housing **or attainable housing** to natural persons who meet the criteria set forth in subparagraphs (1) and (2) of paragraph (a); and

(3) Has the financial resources to repay the loan in accordance with the terms of the agreement.

2. Any residential property for which a loan for rehabilitation is sought must be:

(a) Entirely situated within the boundaries of the city or within an unincorporated area of the county, as the case may be;

(b) Capable of rehabilitation within reasonable limits; and

(c) Subject to not more than two encumbrances.

Sec. 41. NRS 279B.010 is hereby amended to read as follows:

279B.010 The Legislature hereby finds and declares that:

1. There exists within the urban areas of this State a large number of deteriorated, substandard and unsanitary residential properties which have been abandoned by their owners;

2. These properties are a threat to the health, safety and well-being of the persons occupying neighboring properties;

3. There is also a shortage of decent ~~[-safe]~~ and **safe** affordable housing ~~for persons of low or moderate income~~ **and attainable housing** and the counties and cities of this State have an obligation to provide ~~such persons~~ **their residents** with an opportunity to obtain residential property;

4. It is in the public interest to encourage the preservation and maintenance of **affordable housing and attainable** housing in this State, ~~for persons of low or moderate income,~~ in order to improve ~~their~~ living conditions and, in doing so, to benefit the health, safety and welfare of the people of this State; and

5. The provisions of this chapter are in addition to, and do not abrogate or limit the application of, any other provisions of law granting to a county or city the authority to:

- (a) Develop affordable housing ~~{;}~~ **and attainable housing;** and
- (b) Rehabilitate abandoned residential properties.

Sec. 42. NRS 279B.020 is hereby amended to read as follows:

279B.020 As used in this chapter, unless the context otherwise requires:

1. "Abandoned residential property" means residential property which has been:

- (a) Acquired by the governing body pursuant to the provisions of NRS 361.603 or subsection 3 of NRS 279B.100, or by a grant from the Federal Government, the state government or any political subdivision of the State;
- (b) Declared to have been abandoned by the Federal Government, the state government or the governing body; and
- (c) Determined by the governing body to be in need of rehabilitation because of its deteriorated, substandard or unsanitary condition.

2. "**Affordable housing**" *has the meaning ascribed to it in section 2 of this act.*

3. "Agency" means an agency of a county or city established or designated to administer a program.

4. "**Attainable housing**" *has the meaning ascribed to it in section 18 of this act.*

~~{3.}~~ 5. "Governing body" means the governing body of a county or city.

~~{4.}~~ 6. "Program" means a program for the rehabilitation of abandoned residential properties established by a governing body pursuant to this chapter.

~~{5.}~~ 7. "Rehabilitation" includes structural improvements, landscaping and any other measure to improve the appearance of property or maintain property in a decent, safe and sanitary condition.

Sec. 43. NRS 279B.040 is hereby amended to read as follows:

279B.040 1. An applicant for rehabilitation of abandoned residential property must, at the time application is made:

(a) Be a natural person who:

(1) Is a resident of the city or an unincorporated area of the county, as the case may be;

(2) Is a member of a household ~~having a gross income of less than 80 percent of the median gross income for households of the same size residing in the same county or city, as applicable, as that percentage is defined by the United States Department of Housing and Urban Development;~~ **eligible for affordable housing or attainable housing;**

(3) Intends to reside on the abandoned residential property for which the rehabilitation is sought;

(4) Has the financial resources to rehabilitate the abandoned residential property in accordance with the terms of the agreement;

(5) Has the ability to complete the rehabilitation within a reasonable time and maintain the property in a decent, safe and sanitary condition; and

(6) Meets such other requirements as are imposed by the governing body; or

(b) Be an organization that:

(1) Is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3) or 501(c)(4);

(2) Provides affordable housing *or attainable housing* to natural persons who meet the criteria set forth in subparagraphs (1) and (2) of paragraph (a); and

(3) Has the financial resources to rehabilitate the abandoned residential property in accordance with the terms of the agreement.

2. Any abandoned residential property for which an application for the rehabilitation is sought must be:

(a) Entirely situated within the boundaries of the city or within an unincorporated area of the county, as the case may be;

(b) Capable of rehabilitation within reasonable limits; and

(c) Subject to not more than two encumbrances.

Sec. 44. NRS 375.010 is hereby amended to read as follows:

375.010 1. The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

(a) *"Affordable housing" has the meaning ascribed to it in section 2 of this act.*

(b) *"Attainable housing" has the meaning ascribed to it in section 18 of this act.*

(c) "Buyer" means a person or other legal entity acquiring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantee or other transferee of real property.

~~(b)~~ (d) "Deed" means every instrument in writing, whatever its form and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, except that the term does not include:

(1) A lease for any term of years;

(2) An easement;

(3) A deed of trust or common-law mortgage instrument that encumbers real property;

(4) A last will and testament;

(5) A distribution of the separate property of a decedent pursuant to chapter 134 of NRS;

(6) An affidavit of a surviving tenant;

(7) A conveyance of a right-of-way; or

(8) A conveyance of an interest in gas, oil or minerals.

~~[(e)]~~ (e) "Escrow" means the delivery of a deed by the seller into the hands of a third person, including an attorney, title company, real estate broker or other person engaged in the business of administering escrows for compensation, to be held by the third person until the happening of a contingency or performance of a condition, and then to be delivered by the third person to the buyer.

~~[(d)]~~ (f) "Seller" means a person or other legal entity transferring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantor or other transferor of real property.

~~[(e)]~~ (g) "Value" means:

(1) In the case of any deed which is not a gift, the amount of the full purchase price paid or to be paid for the real property.

(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated fair market value of the property.

2. As used in paragraph ~~[(e)]~~ (g) of subsection 1, "estimated fair market value" means the estimated price the real property would bring on the open market in a sale between a willing buyer and a willing seller. Such price may be derived from the assessor's taxable value or the prior purchase price, if the prior purchase was within the 5 years immediately preceding the date of valuation, whichever is higher.

Sec. 45. NRS 375.070 is hereby amended to read as follows:

375.070 1. The county recorder shall transmit the proceeds of the tax imposed by NRS 375.020 at the end of each quarter in the following manner:

(a) An amount equal to that portion of the proceeds which is equivalent to 10 cents for each \$500 of value or fraction thereof must be transmitted to the State Controller who shall deposit that amount in the Account for Low-Income Housing created pursuant to NRS 319.500.

(b) In a county whose population is more than 400,000, an amount equal to that portion of the proceeds which is equivalent to 60 cents for each \$500 of value or fraction thereof must be transmitted 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.

(c) The remaining proceeds must be transmitted to the State Controller for deposit in the Local Government Tax Distribution Account created by NRS 360.660 for credit to the respective accounts of Carson City and each county.

2. In addition to any other authorized use of the proceeds it receives pursuant to subsection 1, a county or city may use the proceeds to pay expenses related to or incurred for the development of affordable housing ~~[for families whose income does not exceed 80 percent of the median income for families residing in the same county, as that percentage is defined by the United States Department of Housing and Urban Development.] and attainable housing.~~ A county or city that uses the proceeds in that manner must give priority to the development of affordable housing *and attainable housing* for persons who are disabled or elderly.

3. The expenses authorized by subsection 2 include, but are not limited to:

- (a) The costs to acquire land and developmental rights;
- (b) Related predevelopment expenses;
- (c) The costs to develop the land, including the payment of related rebates;
- (d) Contributions toward down payments made for the purchase of affordable housing ~~[;]~~ **and attainable housing**; and
- (e) The creation of related trust funds.

Sec. 46. The provisions of sections ~~[10, 11 and 12]~~ **9 to 13, inclusive**, of this act ~~[expire by limitation when chapter 233J of NRS as a whole expires by limitation. The provisions of section 13 of this act]~~ expire by limitation when NRS 233J.010 expires by limitation. The provisions of section 14 of this act expire by limitation when NRS 233J.060 expires by limitation.

Sec. 47. 1. This ~~section and sections 9 to 14, inclusive, of this act~~ ~~[becomes]~~ **become effective on June 30, 2007.**

2. Sections 1 to 8, inclusive, and 15 to 46, inclusive, of this act become effective on July 1, 2007.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 257.

Bill read second time.

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

Amendment No. 485.

SUMMARY ~~[Establishes a career incentive program to provide salary increases to]~~ **Requires employers of** certain emergency medical technicians, firefighters and peace officers ~~[who complete certain educational requirements.]~~ **to establish a program of educational assistance.** (BDR 23-828)

AN ACT relating to public safety; ~~[establishing a career incentive program to provide salary increases to]~~ **requiring the employers of** certain emergency medical technicians, firefighters and peace officers ~~[who complete certain educational requirements; requiring the State to pay for such salary increases; requiring the Peace Officers' Standards and Training Commission to administer the program; requiring the Commission to consult with other governmental entities;]~~ **to establish a program of educational assistance; setting forth the requirements of such a program;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~[establishes a career incentive]~~ **requires certain employers to establish an educational assistance** program pursuant to which persons who: (1) are employed as full-time, salaried emergency medical technicians, firefighters or peace officers by a state or local governmental entity; (2) after

gaining such employment, **begin a course of study** to obtain an approved degree from an institution of the Nevada System of Higher Education; and (3) enter into a binding **service commitment** agreement to remain with their employer for a period of at least 3 additional years, are eligible to receive ~~salary increases based upon the level of the degree obtained.~~ **educational assistance in the form of reimbursement for tuition, fees, books and similar materials.** If such a person fails to fulfill his service commitment without good cause, or by causing his own termination, he is required to reimburse ~~the State~~ **his employer** for any ~~increased salary~~ **educational assistance** that he has received under the program.

~~Under the career incentive program, an emergency medical technician, firefighter or peace officer would be eligible to receive a 6 percent increase in base salary for obtaining an associate's degree, a 12 percent increase in base salary for obtaining a bachelor's degree and an 18 percent increase in base salary for obtaining a master's degree, law degree or other doctoral degree.~~

~~The career incentive program will be administered by the Peace Officers' Standards and Training Commission in consultation with state and local governmental entities which employ emergency medical technicians, firefighters or peace officers, or any combination of such personnel. The program does.~~ **The provisions of this bill do not apply to : (1) persons who obtained their degrees before becoming emergency medical technicians, firefighters or peace officers ~~;~~ ; or (2) programs of educational assistance, tuition reimbursement or other similar programs that were in existence before July 1, 2007.**

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

Section 1. Chapter 285 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~13,~~ **14**, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~13,~~ 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to ~~7,~~ 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~["Commission" means the Peace Officers' Standards and Training Commission.] (Deleted by amendment.)~~

Sec. 4. *"Emergency medical technician" means a person who is certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS.*

Sec. 5. *"Employer" means the State of Nevada, an agency of this State or a political subdivision of this State which employs emergency medical technicians, firefighters or peace officers.*

~~{Sec. 5.}~~ Sec. 6. "Firefighter" means a person who is a member of a fire prevention or suppression unit and whose principal duty is to control and extinguish fires.

~~{Sec. 6.}~~ Sec. 7. "Peace officer" has the meaning ascribed to it in NRS 289.010.

~~{Sec. 7.}~~ Sec. 8. "Program" means ~~the career incentive~~ a program of educational assistance established by an employer pursuant to section ~~8~~ 9 of this act.

~~{Sec. 8.}~~ Sec. 9. 1. ~~{There is hereby established a career incentive}~~ Each employer shall establish a program to provide ~~salary increases~~ educational assistance to emergency medical technicians, firefighters and peace officers ~~who:~~

~~(a) Are employed;~~

(a) Whom the employer employs as such in a full-time salaried ~~positions by the State of Nevada, an agency of this State or a political subdivision of this State;~~

~~(b) After~~ position;

(b) Who, after becoming employed as such in a full-time salaried ~~positions by the State of Nevada, an agency of this State or a political subdivision of this State,~~ position, begin a course of study to obtain a degree:

(1) In a field or subject approved by the ~~Commission;~~ employer; and

(2) From a university, state college or community college within the Nevada System of Higher Education; and

(c) ~~Enter~~ Who enter into and comply with a service commitment agreement as described in section ~~10~~ 11 of this act.

2. ~~{The Commission}~~ Each employer shall administer ~~the~~ its own program. In administering ~~the program, the Commission shall~~ its program, an employer may consult with ~~state and local governmental entities which employ:~~

~~(a) Emergency medical technicians;~~

~~(b) Firefighters;~~

~~(c) Peace officers; or~~

~~(d) Any combination of such personnel.~~ the Nevada System of Higher Education or an institution thereof.

~~{Sec. 9.}~~ Sec. 10. 1. ~~{The}~~ Each program must provide for an eligible emergency medical technician, firefighter or peace officer to receive reimbursement for the following ~~increases in base salary:~~

~~(a) For obtaining an associate's degree, 6 percent;~~

~~(b) For obtaining a bachelor's degree, 12 percent.~~

~~(c) For obtaining a master's degree, juris doctorate or other doctoral degree, 18 percent.~~

~~2. As used in this section, "base salary" does not include any component of the salary of an emergency medical technician, firefighter or peace officer~~

~~that is attributable to a salary increase described in subsection 1.]~~
educational expenses:

(a) Tuition;

(b) Fees; and

(c) The cost of books and other materials that are directly related to the person's course of study.

2. A program need not provide reimbursement for any living expenses or other expenses that the emergency medical technician, firefighter or peace officer would incur regardless of whether he was enrolled in a course of study to obtain a degree.

~~[Sec. 10.]~~ Sec. 11. 1. To be eligible to receive ~~for a salary increase under the~~ educational assistance pursuant to a program, an emergency medical technician, firefighter or peace officer must enter into a binding service commitment agreement pursuant to which he agrees to remain in the employ of ~~the state or local governmental employer which employs him in that capacity~~ his employer for a period of at least 3 years after the date on which he ~~begins to receive the salary increase.~~ is awarded the degree for which he received reimbursement for educational expenses as described in section 10 of this act.

2. An emergency medical technician, firefighter or peace officer who enters into a service commitment agreement and, in the absence of circumstances constituting death, disability, impossibility or an undue hardship, fails to remain in the employ of his employer for the period prescribed in the agreement, is thereby in violation of the agreement and shall reimburse ~~the State of Nevada~~ his employer for any amount that he received ~~for a salary increase under the program~~ in the form of educational assistance in connection with that agreement.

3. Except as otherwise provided in subsection 4, if the employment of an emergency medical technician, firefighter or peace officer who has entered into a service commitment agreement is involuntarily terminated before he is able to fulfill the agreement, the involuntary termination does not constitute a violation of the terms of the agreement.

4. If the employment of an emergency medical technician, firefighter or peace officer who has entered into a service commitment agreement is involuntarily terminated before he is able to fulfill the agreement and ~~the Commission,~~ his employer, after notice and a hearing, determines that he engaged in a pattern of conduct reasonably calculated to cause his own termination, he shall be deemed to have violated the terms of the agreement.

~~[Sec. 11.]~~ Sec. 12. ~~An emergency medical technician, firefighter or peace officer who wishes to participate in the program and receive a salary increase under the program shall:~~

~~1. Pay the cost of obtaining his degree, including, without limitation, tuition, books and fees, unless he qualifies for an educational assistance or tuition reimbursement program offered by his employer, if any;~~

~~2. Submit an application to the Commission on a form provided by the Commission;~~

~~3. Demonstrate to the satisfaction of the Commission that he fulfills the requirements set forth in subsection 1 of section 8 of this act; and~~

~~4. Comply with any other applicable requirements specified by the Commission.] (Deleted by amendment.)~~

~~[Sec. 12.] Sec. 13. 1. The costs and expenses incurred by employers to pay salary increases under the program must be borne by the State.~~

~~2. If an employer is a local governmental employer, such costs and expenses must first be paid by city or county warrants. The appropriate city or county officer, as applicable, shall then present a claim to the State Board of Examiners for the amount of such costs and expenses. Upon approval of the claim by the State Board of Examiners, the State Controller shall draw his warrant for the payment thereof, and the State Treasurer shall pay the same from the Reserve for Statutory Contingency Account.] (Deleted by amendment.)~~

~~[Sec. 13.] Sec. 14. 1. The Commission shall, in consultation with state and local governmental entities which employ emergency medical technicians, firefighters or peace officers, or any combination of such personnel, Each employer shall adopt such [regulations] guidelines and procedures as it determines to be necessary or advisable to carry out [the provisions of sections 2 to 13, inclusive, of this act.] its program.~~

~~2. The [regulations] guidelines and procedures adopted by [the Commission] an employer pursuant to subsection 1 must include, without limitation, provisions:~~

~~(a) Setting forth the fields or subjects in which a [qualifying] degree may be obtained;~~

~~(b) Prescribing the form of [applications and] service commitment agreements ~~and~~ and any other relevant documents;~~

~~(c) Specifying the conditions under which impossibility or undue hardship excuses what would otherwise constitute a violation of a service commitment agreement;~~

~~(d) Describing the specific manner in which [salary increases] educational assistance required to be paid under the program ~~must~~ will be disbursed;~~

~~(e) Setting forth the manner in which [salary increases] educational assistance must be repaid to the [State] employer in the event that the recipient of such [increases] assistance violates his service commitment agreement; ~~and~~~~

~~(f) Addressing the respective obligations of the parties in the situation in which an emergency medical technician, firefighter or peace officer receives educational assistance but fails to earn a degree; and~~

~~(g) Addressing such other matters as the [Commission] employer deems appropriate.~~

~~{Sec. 14.}~~ **Sec. 15.** NRS 285.010 is hereby amended to read as follows:

285.010 As used in ~~{this chapter}~~ **NRS 285.010 to 285.070, inclusive**, unless the context otherwise requires:

1. "Adoption" means the putting of an employee suggestion into effect.
2. "Board" means the Merit Award Board.
3. "Employee suggestion" means a proposal by a state employee which would:

- (a) Reduce or eliminate state expenditures; or
- (b) Improve the operation of State Government.

4. "Merit award" means an award to a state employee for an adopted suggestion in the form of either the Governor's certificate of commendation or a cash payment.

5. "State employee" means any person employed by a state agency who is not the head of the department.

~~{Sec. 15.}~~ **Sec. 16.** NRS 286.025 is hereby amended to read as follows:

286.025 1. Except as otherwise provided by specific statute, "compensation" is the salary paid to a member by his principal public employer.

2. The term includes:

(a) Base pay, which is the monthly rate of pay excluding all fringe benefits.

(b) Additional payment ~~{for}~~ :

(1) *For* longevity, shift differential, hazardous duty, work performed on a holiday if it does not exceed the working hours of the normal workweek or pay period for that employee, holding oneself ready for duty while off duty and returning to duty after one's regular working hours.

(2) *Received pursuant to ~~{the career incentive program created by section 8}~~ an educational assistance program established in accordance with section 9 of this act.*

(c) Payment for extra duty assignments if it is the standard practice of the public employer to include such pay in the employment contract or official job description for the calendar or academic year in which it is paid and such pay is specifically included in the member's employment contract or official job description.

(d) The aggregate compensation paid by two separate public employers if one member is employed half-time or more by one, and half-time or less by the other, if the total does not exceed full-time employment, if the duties of both positions are similar and if the employment is pursuant to a continuing relationship between the employers.

3. The term does not include any type of payment not specifically described in subsection 2.

~~{Sec. 16.}~~ **Sec. 17.** ~~{NRS 289.510 is hereby amended to read as follows:~~

~~289.510 1. The Commission:~~

~~(a) Shall meet at the call of the Chairman, who must be elected by a majority vote of the members of the Commission;~~

~~(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State;~~

~~(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:~~

~~(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;~~

~~(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;~~

~~(3) Qualifications for instructors of peace officers; and~~

~~(4) Requirements for the certification of a course of training.~~

~~(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.~~

~~(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.~~

~~(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.~~

~~(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.~~

~~(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.~~

~~(i) Shall administer the provisions of sections 2 to 13, inclusive, of this act.~~

~~2. Regulations adopted by the Commission:~~

~~(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;~~

~~(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; and~~

~~(c) May require that training be carried on at institutions which it approves in those regulations.} (Deleted by amendment.)~~

Sec. 18. The amendatory provisions of this act do not pertain to, and do not alter or otherwise affect:

1. The terms or conditions of an educational assistance program, tuition reimbursement program or any similar program that an employer has established before July 1, 2007.

2. Any rights, remedies, obligations or procedures relating to a program described in subsection 1.

Sec. 19. The provisions of NRS 354.599 do not apply to any additional expenses of local government that are related to the provisions of this act.

~~{Sec. 17.}~~ **Sec. 20.** This act becomes effective on July 1, 2007.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 263.

Bill read second time.

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

Amendment No. 222.

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; ~~{authorizing an agency which provides child welfare services to release to certain governmental agencies certain information concerning missing children who are in protective custody or with whom the agency has had contact,}~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{ Existing law makes certain reports and records concerning reports of child abuse or neglect confidential except in certain circumstances and authorizes the release of certain information relating to data and information concerning such reports and investigations only to specific persons. (NRS 432B.280, 432B.290) Section 3 of this bill authorizes an agency which provides child welfare services to release certain information relating to a missing child who is the subject of an investigation of alleged abuse or neglect or who is in the protective custody of an agency which provides child welfare services to certain governmental agencies that need the information to assist in locating the child and to carry out their duties in protecting children from abuse and neglect. The information that may be released includes the child's name, age, physical description and photograph. The agencies receiving this information may disclose the information to others. }~~

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 ~~{certain meetings,~~

~~hearings and deliberations of~~ multidisciplinary and administrative teams ~~are not subject to the Open Meeting Law.~~ **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 ~~[who determines that prosecution is not appropriate for an incident that involves a child fatality]~~ to notify the appropriate district court of ~~the~~ **any incident that involves a child fatality** and of his decision **whether or** not to prosecute. Section 7 further requires ~~[, in certain circumstances,]~~ that **in certain counties** a grand jury be impaneled to inquire into the incident ~~[and that the]~~ **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 14 of this bill requires an agency which provides child welfare services to release upon request certain information relating to a case of abuse or neglect of a child which results in a fatality or near fatality.]~~

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 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. (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~~ *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~~ and the limitations of legislative appropriations for the programs ~~and~~ *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. ~~1. For purposes of assisting in locating a missing child who is the subject of an investigation of alleged abuse or neglect or who is in the protective custody of an agency which provides child welfare services, an agency which provides child welfare services may provide the following information to a federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse or neglect:~~

- ~~(a) The name of the child;~~
- ~~(b) The age of the child;~~
- ~~(c) A physical description of the child; and~~
- ~~(d) A photograph of the child.~~

~~2. Information provided pursuant to subsection 1 is not confidential and may be disclosed.~~ (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 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. ~~At~~ 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, ~~and~~ 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 ~~of the team on the information or evidence received by the team are not~~ are subject to any provision of chapter 241 of NRS.

2. ~~At~~ A multidisciplinary team or an administrative team ~~organized pursuant to NRS 432B.408~~ 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.

Sec. 7. 1. ~~If the district attorney determines that prosecution is not appropriate for an incident that involves a child fatality, the~~ A district attorney shall notify the appropriate district court of ~~the~~ any incident that involves a child fatality and of his decision whether or not to prosecute.

2. ~~If~~ In a county whose population is 100,000 or more, when a district ~~judge of the appropriate district court determines that further review of the~~ 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; ~~is necessary.~~

(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 ~~described in subsections 1 and 2~~ 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 ~~[described in subsections 1 and 2]~~ 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.

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 corrective action to the agency which provides child welfare services. If the agency which provides child welfare services fails to take corrective action within a reasonable period, the Division shall take one or more of the following actions against an agency which provides child welfare services :** ~~[if the Division determines that the agency which provides child welfare services] [which] [is not complying with] [the] [federal or state laws relating to providing child welfare services, regulations adopted] [by the Division of Child and Family Services].~~

7. ~~Evaluate the plans submitted for approval pursuant to NRS 432B.395.] [pursuant to those laws or statewide plans or policies relating to providing child welfare services.]~~

(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.

~~{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. 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.

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

~~(4)~~ ~~(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.

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** concerning any possible abuse or neglect. The child **and any sibling of the child** may be interviewed at any place where ~~he~~ **the child or his sibling** is found. 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 ~~section 3 of this act and~~ subsection 2 of 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 pursuant to section 3 of this act;~~

~~(c)~~ As otherwise authorized or required pursuant to NRS 432B.290; or

~~(d)~~ As otherwise required pursuant to NRS 432B.513,

↪ is guilty of a misdemeanor.

Sec. 14. ~~NRS 432B.290 is hereby amended to read as follows:~~

~~432B.290 1. Except as otherwise provided in subsections 2, 5 and 6 and NRS 432B.513, data or information concerning reports and investigations thereof made pursuant to this chapter may be made available only to:~~

~~(a) A physician, if the physician has before him a child who he has reasonable cause to believe has been abused or neglected;~~

~~(b) A person authorized to place a child in protective custody, if the person has before him a child who he has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;~~

~~(c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:~~

~~(1) The child; or~~

~~(2) The person responsible for the welfare of the child;~~

~~(d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child;~~

~~(e) A court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for the determination of an issue before it;~~

~~(f) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to him;~~

~~(g) The attorney and the guardian ad litem of the child;~~

~~(h) A grand jury upon its determination that access to these records is necessary in the conduct of its official business;~~

~~(i) A federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;~~

~~(j) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;~~

~~(k) A team organized pursuant to NRS 432B.350 for the protection of a child;~~

~~(l) A team organized pursuant to NRS 432B.405 to review the death of a child;~~

~~(m) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, if the identity of the person responsible for reporting the alleged abuse or neglect of the child to a public agency is kept confidential;~~

~~(n) The persons who are the subject of a report;~~

~~(o) An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child;~~

~~(p) Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized, by the agency or department having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if:~~

~~(1) The identity of the person making the report is kept confidential; and~~

~~(2) The officer, Legislator or a member of his family is not the person alleged to have committed the abuse or neglect;~~

~~(g) The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report;~~

~~(r) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency;~~

~~(s) The Rural Advisory Board to Expedite Proceedings for the Placement of Children created pursuant to NRS 432B.602 or a local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;~~

~~(t) The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services; or~~

~~(u) An employer in accordance with subsection 3 of NRS 432.100.~~

~~2. Except as otherwise provided in subsection 3, data or information concerning reports and investigations thereof made pursuant to this chapter [may] *must, upon request,* be made available to any member of the general public if the child who is the subject of a report [dies or is critically injured as a result] of alleged abuse or neglect [, except that the] *suffers a fatality or near fatality. The data or information which [may] *must* be disclosed [is limited to:*~~

~~(a) The fact that a] *includes, without limitation:*~~

~~(a) A summary of the report of abuse or neglect [has been made and, if appropriate,] *and a factual description of the contents of the report [;], including, without limitation:*~~

~~(1) The date of notification of the child fatality or near fatality to the agency which provides child welfare services;~~

~~(2) The age of the child;~~

~~(3) The location, including, without limitation, the city and county, of the child at the time of the child fatality or near fatality; and~~

~~(4) The cause of the child fatality or near fatality if that information has been determined;~~

~~(b) Whether an investigation has been initiated pursuant to NRS 432B.260, and a summary of the [result of a] *results of any such completed investigation [; and], including, without limitation:*~~

~~(1) A description of any credible evidence which supports the findings of the report concerning the child fatality or near fatality; and~~

~~(2) Whether the agency which provides child welfare services had any contact with the child or a member of the child's family before the child fatality or near fatality;~~

~~(c) A summary of any child welfare services provided, within the 5 years immediately preceding the child fatality or near fatality, by an agency which provides child welfare services to the child or a member of the child's family;~~

~~(d) Whether the child's case was closed by the agency which provides child welfare services before the child fatality or near fatality and, if so, the reasons that the case was closed; and~~

~~(e) Such other information as is authorized for disclosure by a court pursuant to subsection 4.~~

~~3.—An agency which provides child welfare services shall not disclose the following data or information pursuant to subsection 2 [if the agency determines that the disclosure is not in the best interests of the child or if disclosure of the information would adversely affect any pending investigation concerning a report.]—~~

~~(a) The name of the child;~~

~~(b) The name of a sibling of the child or other identifying information concerning the sibling of the child;~~

~~(c) The name of a person who made a report to an agency which provides child welfare services or to a law enforcement agency pursuant to NRS 132B.220;~~

~~(d) Any information that tends to undermine or adversely affect an ongoing or future criminal investigation;~~

~~(e) Any medical, mental health or psychological information that is otherwise confidential;~~

~~(f) Any communication protected by the attorney-client privilege;~~

~~(g) Any information that may cause mental or physical harm to a sibling of the child or to another child who resides in the same household as the child who is the subject of a report;~~

~~(h) Any information that may undermine the prosecution of or the right to a fair trial of an alleged perpetrator of abuse or neglect of a child; and~~

~~(i) Any information the release of which is prohibited by federal or state law.~~

~~4.—Upon petition, a court of competent jurisdiction may authorize the disclosure of additional information to the public pursuant to subsection 2 if good cause is shown by the petitioner for the disclosure of the additional information.~~

~~5.—An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:~~

~~(a) A copy of:~~

~~(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or~~

~~(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or~~

~~(b) A written summary of the allegations made against the person who is named in the report as allegedly causing the abuse or neglect of the child.~~

~~The summary must not identify the person responsible for reporting the alleged abuse or neglect.~~

~~6. An agency which provides child welfare services shall disclose the identity of a person who makes a report or otherwise initiates an investigation pursuant to this chapter if a court, after reviewing the record in camera and determining that there is reason to believe that the person knowingly made a false report, orders the disclosure.~~

~~7. Any person, except for:~~

~~(a) The subject of a report;~~

~~(b) A district attorney or other law enforcement officer initiating legal proceedings; or~~

~~(c) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151;~~

~~who is given access, pursuant to subsection 1 or 2, to information identifying the subjects of a report and who makes this information public is guilty of a misdemeanor.~~

~~8. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.~~

~~9. As used in this section, "near fatality" means an act that, as verified or certified by a physician, registered nurse or other person licensed in this State to provide medical services, places a child in serious or critical condition. The verification or certification may be obtained in person, by telephone, in writing, by electronic mail or by facsimile.] (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, 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, 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;*

~~((e))~~ (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, 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.

~~[Sec. 20.]~~ **Sec. 21.** NRS 432B.395 is hereby repealed.

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.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 278.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 590.

SUMMARY—Requires the ~~[Department of Motor Vehicles to issue certain special license plates available for use on motorcycles.]~~ **Commission on Special License plates to study the feasibility of the design, preparation and issuance of special license plates for use on motorcycles.** (BDR ~~[43]~~ S-1191)

AN ACT relating to license plates; requiring the ~~[Department of Motor Vehicles to issue special license plates authorized for use by veterans to be available for use on motorcycles.]~~ **Commission on Special License Plates to study the feasibility of the design, preparation and issuance of certain**

special license plates for use on motorcycles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law does not authorize special license plates to be made for use on motorcycles. (NRS 482.272) ~~Five special license plates are authorized to be issued to specific categories of veterans of the United States Armed Forces for use on passenger cars and light commercial vehicles. (NRS 482.3763, 482.3765, 482.377, 482.3775, 482.378) This bill requires the Department of Motor Vehicles to issue these five special license plates to veterans for use on motorcycles.~~ **This bill requires the Commission on Special License Plates to study the feasibility of the design, preparation and issuance of certain special license plates for use on motorcycles.**

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

Delete existing sections 1 through 6 of this bill and replace with the following new section 1:

Section 1. 1. The Commission on Special License Plates shall study the feasibility of the design, preparation and issuance of special license plates for use on motorcycles. The study must include, without limitation:

- (a) A determination of the feasibility of designing and preparing special license plates for use on motorcycles;
- (b) A plan for the issuance of special license plates for use on motorcycles, including special license plates issued pursuant to NRS 482.3672 to 482.37945, inclusive; and
- (c) The costs of implementing the plan described in paragraph (b).

2. On or before January 1, 2009, the Commission on Special License Plates shall submit a report of the results of the feasibility study conducted pursuant to subsection 1, including, without limitation, any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 283.

Bill read second time.

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

Amendment No. 506.

AN ACT relating to care facilities; requiring child care facilities and facilities for the care of adults during the day to maintain and provide certain information to the parents, guardians or legal representatives of persons cared

for in those facilities; requiring licensing authorities to provide summaries **and reports** to the facilities of certain complaints against the facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the licensing of child care facilities (chapter 432A of NRS) and facilities for the care of adults during the day (chapter 449 of NRS). Section 1 of this bill requires child care facilities to maintain records of licensure ~~[inspections]~~ and disciplinary action, and to make that information available to the public and the parents or guardians of children cared for in the facility. Section 2 of this bill makes failure to comply with this requirement a ground for revocation of the facility's license. Sections 3 and 4 of this bill impose similar requirements with respect to facilities for the care of adults during the day. Sections 2 and 4 also require that summaries **and reports** of complaints against the facilities be provided to the facilities under certain circumstances and made available to the public.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A child care facility shall maintain a copy of:

(a) *The license issued to the facility by the Bureau or an agency for the licensing of child care facilities established by a county or incorporated city;*

~~(b) The report of any investigation or inspection of the facility conducted by the Bureau, the State Fire Marshal, the State Health Officer or their designees;~~

~~(c) Any summaries of complaints provided to the facility pursuant to subsection 3 of NRS 432A.190; ~~and~~~~

(c) The report of any investigation conducted with respect to the complaints; and

(d) The report of any disciplinary action taken against the facility pursuant to NRS 432A.190.

~~[Copies of the information maintained pursuant to this subsection must be retained by the child care facility for at least 12 months after receipt.]~~

2. The information maintained pursuant to subsection 1 must be provided ~~+~~ in the form prescribed pursuant to subsection 3:

(a) *To the parent or guardian of a child who enrolls the child in the facility, at or before the time of enrollment.*

(b) *To the parent or guardian of a child, upon request, who is considering enrolling the child in the facility.*

(c) *In the case of disciplinary action taken pursuant to NRS 432A.190, to the parents or guardians of all children admitted to the facility. Notice of disciplinary action must be provided to the parents or guardians of the*

children admitted to the facility within 3 working days after receipt by the licensed child care facility.

3. The Bureau shall develop a standard form for reporting the information required to be provided pursuant to subsection 2. The information reported on the form must include all required information for the 12-month period ending on the last day of the month immediately preceding the month in which the information is provided.

4. The Bureau and every agency for the licensing of child care facilities established by a county or incorporated city shall inform persons seeking information concerning child care facilities of their right to information pursuant to this section.

Sec. 2. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Bureau may deny an application for a license or may suspend or revoke any license issued under the provisions of this chapter upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

(f) Failure to comply with the provisions of section 1 of this act.

2. In addition to the provisions of subsection 1, the Bureau may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Bureau shall maintain a log of any complaints that it receives relating to activities for which the Bureau may revoke the license to operate a child care facility pursuant to subsection 2. ***The Bureau shall provide to a child care facility ~~for~~ :***

(a) A summary of a complaint against the facility if the investigation of the complaint by the Bureau either substantiates the complaint or is inconclusive ~~is~~;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the ~~summary accessible~~ information available to the public pursuant to section 1 of this act.

4. On or before February 1 of each odd-numbered year, the Bureau shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Bureau pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Bureau pursuant to subsection 2.

Sec. 3. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A facility for the care of adults during the day shall maintain a copy of:

(a) The license issued to the facility pursuant to NRS 449.001 to 449.240, inclusive;

(b) ~~The report of any investigation or inspection of the facility conducted by the Health Division, the State Fire Marshal, the Aging Services Division of the Department of Health and Human Services or their designees;~~

~~(c) Any summaries of complaints provided to the facility pursuant to subsection 3 of NRS 449.160; ~~and~~~~

(c) The report of any investigation conducted with respect to the complaints; and

(d) The report of any disciplinary action taken against the facility pursuant to NRS 449.160 or 449.163.

~~↪ Copies of the information maintained pursuant to this subsection must be retained by the facility for the care of adults during the day for at least 12 months after receipt.~~

2. The information maintained pursuant to subsection 1 must be provided ~~is~~ in the form prescribed pursuant to subsection 3:

(a) To each patient or his legal representative, at or before the time of admission.

(b) To a prospective patient or his legal representative, upon request, who is considering admission of the patient to the facility.

(c) In the case of disciplinary action taken pursuant to NRS 449.160 or 449.163, to all patients admitted to the facility and their legal representatives. Notice of disciplinary action must be provided to the legal representatives of all patients admitted to the facility within 3 working days after receipt by the facility.

3. The Health Division shall develop a standard form for reporting the information required to be provided pursuant to subsection 2. The

information reported on the form must include all required information for the 12-month period ending on the last day of the month immediately preceding the month in which the information is provided.

4. The Health Division shall inform persons seeking information concerning facilities for the care of adults during the day of their right to information pursuant to this section.

Sec. 4. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of section 3 of this act.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. ***The Health Division shall provide to a facility for the care of adults during the day ~~for~~ :***

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive ~~for~~ ;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

↪ *The facility shall make the ~~summary accessible~~ information available to the public pursuant to section 3 of this act.*

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 285.

Bill read second time.

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

Amendment No. 286.

SUMMARY—Revises provisions governing ~~the adjudication of water rights~~ **certain transfers of groundwater.** (BDR 48-913)

AN ACT relating to water; ~~requiring the State Engineer to repeat the notice~~ **revising provisions relating to the protest of certain applications for permits to appropriate water under certain circumstances; involving interbasin transfers of groundwater;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth requirements for the State Engineer to provide certain notice of an application for a permit to appropriate water. These requirements include publishing the notice in a newspaper and if the application is for a well, mailing a copy of the notice to owners of real property containing a domestic well that is within 2,500 feet of the proposed well. (NRS 533.360) Existing law also allows an interested person to file with the State Engineer a written protest to the application. (NRS 533.365)

This bill requires that if the State Engineer fails to ~~approve or~~ **grant, deny or hear** an application for a permit to appropriate, **change the point of diversion of, change the manner of use of, or change the place of use of more than 250 acre-feet of water per annum** within ~~5~~ **7** years after the date on which the application was submitted, the State Engineer must ~~repeat the notice that is required by NRS 533.360. This bill also provides another opportunity for an interested person to file a written protest with the State Engineer after the notice of application is repeated.~~, **if the application involves an interbasin transfer of groundwater, notice a new period of protest of 45 days. This bill also provides that certain successors in interest of persons who had already filed a written protest against the granting of such an application must be allowed to continue pursuing the**

protest as though they were the person who had filed the original protest.

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

Section 1. NRS 533.365 is hereby amended to read as follows:

533.365 1. Any person interested may, within 30 days from the date of last publication of the notice of application, file with the State Engineer a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which shall be verified by the affidavit of the protestant, his agent or attorney.

2. On receipt of a protest, the State Engineer shall advise the applicant whose application has been protested of the fact that the protest has been filed with him, which advice shall be sent by certified mail.

3. The State Engineer shall consider the protest, and may, in his discretion, hold hearings and require the filing of such evidence as he may deem necessary to a full understanding of the rights involved. The State Engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.

4. The State Engineer shall adopt rules of practice regarding the conduct of such hearings. The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

5. The provisions of this section do not prohibit the noticing of a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application, if such notification is required to be given pursuant to subsection 8 of NRS 533.370.

~~Section 1.~~ **Sec. 2.** NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and
- (c) The applicant provides proof satisfactory to the State Engineer of:
 - (1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and ~~4~~ II, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~4~~ II, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection ~~4~~ II, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~9,~~ ~~10,~~ 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. *If:*

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

↪ the State Engineer shall notice a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written

protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right, an owner of real property containing a domestic well or an owner of an interest in a domestic well, and if that previous owner had already filed a written protest against the granting of an application to allow an interbasin transfer of groundwater, the successor in interest must be allowed to pursue that protest in the same manner as though he were the previous owner to whose interest he succeeded. If such a successor in interest wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8, the successor need not file with the State Engineer a new written protest but must, within 45 days after the date on which the notification was entered and mailed, inform the Office of the State Engineer that he wishes to continue pursuing the protest.

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

~~9. If the State Engineer does not approve or reject an application within 5 years after the date on which the application is submitted, before the State Engineer may approve or deny such application, he shall again comply with the notice requirements set forth in NRS 533.360. Any person interested may, within 30 days after the date of last publication of such notice, file with the State Engineer a written protest pursuant to NRS 533.365.~~

~~10.~~ 12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

~~10.~~ ~~11.~~ 13. As used in this section, ~~“interbasin”~~:

(a) “County of origin” means the county from which groundwater is transferred or proposed to be transferred.

(b) “Domestic well” has the meaning ascribed to it in NRS 534.350.

(c) “Interbasin transfer of groundwater” means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

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

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 311.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 453.

AN ACT relating to motor vehicles; prohibiting certain fees from being charged for the storage of a motor vehicle in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a tow car operator from charging an owner of a motor vehicle any administrative or processing fee for the period ending 14 days after the date on which the motor vehicle was placed in storage. (NRS 706.4479) This bill expands existing law and provides that an operator shall not impose any ~~administrative or processing~~ fees ~~for charge~~ for the storage of ~~any vehicle that was towed at the request of someone other than the owner, for any period in excess of 21 days after the date the motor vehicle was placed in storage,~~ **a vehicle for a period longer than 21 days after placing the motor vehicle in storage if the vehicle was towed at the request of a law enforcement officer following an accident involving the vehicle or for a period longer than 15 days after placing any other motor vehicle in storage**, unless the operator ~~notifies~~ **makes a reasonable attempt to ascertain the identity of the owner of the vehicle and provide notification** by certified mail that the vehicle has been towed and stored.

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

Section 1. NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the operator shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than 15 days after placing any other vehicle in storage:

- (1) Of the location where the motor vehicle is being stored;
- (2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;
- (3) Of the charge for *towing and* storage; and
- (4) Of the date and time the vehicle was placed in storage.

(b) If the identity of the registered and legal ~~owner~~ **owner** is not ***known or readily available, request the*** ***make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other*** necessary information from the ~~Department~~ ***agency charged with the registration of the motor vehicle in this State or any other state within 15*** :

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing ~~the~~ any other motor vehicle in storage.

↪ The operator shall attempt to notify the owner of the vehicle *by certified mail* as soon as possible, but in no case later than ~~15~~

~~(1) Twenty one days after identification of the owner is obtained if the motor vehicle that is placed in storage was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or~~

~~(2) Fifteen) 15 days after identification of the owner is obtained for any ~~other~~ motor vehicle.~~

~~{(e) Use all resources reasonably necessary to ascertain the name of the owner of a vehicle} [and is responsible for making] *1, make an independent inquiry if necessary and provide correct notification* [of] *1 to the owner.*~~

2. ~~{If a motor vehicle that is placed in storage was towed at the request of a law enforcement officer following an accident involving the motor vehicle, the operator shall not impose any administrative or processing fee or charge with respect to the vehicle for the period ending 14 days after the date on which the motor vehicle was placed in storage.} If an operator includes in his tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:~~

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,

↪ unless the operator complies with the requirements set forth in subsection 1.

~~3. If a motor vehicle that is placed in storage was towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the operator shall not impose any administrative or processing fee or charge with respect to the vehicle, including, without limitation, a fee for storage of the vehicle, for any period in excess of 21 days after the date on which the motor vehicle was placed in storage, unless the operator notifies the owner of the motor vehicle by certified mail that the vehicle has been towed and stored.~~

Sec. 2. This act becomes effective on January 1, 2008.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 360.

Bill read second time.

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

Amendment No. 505.

AN ACT relating to public health; requiring the Health Division of the Department of Health and Human Services to establish the State Program for Vascular Health; requiring the Administrator of the Division to appoint a Coordinator for Vascular Health; creating the Advisory Committee for Vascular Health; ~~requiring the Advisory Committee to adopt a State Plan for the Recommended Prevention and Treatment of Stroke;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 11 of this bill requires the Health Division of the Department of Health and Human Services to establish the State Program for Vascular Health. Sections 12 and 13 of this bill provide for the appointment of a Coordinator for Vascular Health and prescribe the duties of the Coordinator. Sections 14 and 15 of this bill create the Advisory Committee for Vascular Health and prescribe the duties of the Committee. ~~Section 16 of this bill requires the Advisory Committee to adopt a State Plan for the Recommended Treatment and Prevention of Stroke.~~ Sections 18 and 19 of this bill set forth the powers and duties of the Health Division related to the State Program for Vascular Health . ~~and the State Plan for the Recommended Prevention and Treatment of Stroke.~~

~~Existing law requires the licensure of hospitals and other medical facilities before the hospital or facility may operate in this State. (NRS 449.030) Certain licensed facilities are required to amend their licenses to operate before the facilities may offer certain additional services. (NRS 449.087) Section 20 of this bill requires a licensed facility to amend its license before offering services as a center for the treatment of stroke.~~ Section 18 requires the Health Division to conduct public education campaigns and to submit an annual report to the Governor and the Legislative Counsel Bureau summarizing information about the Coordinator, the Committee, the public education campaigns, activities undertaken for the Program and recommendation. Section 19 authorizes the Health Division to enter into contracts and to apply for and accept gifts, grants, donations and bequests.

~~¶ WHEREAS, Cardiovascular disease is the number one killer of men and women in this country and stroke is the third leading cause of death in this country; and~~

~~WHEREAS, Stroke is the leading cause of serious, long term disability and can result in both physical and emotional devastation, leaving many victims struggling with the activities of daily living; and~~

~~WHEREAS, Heart attacks and strokes are life and death emergencies in which every second counts because today victims of heart attacks and strokes can benefit from medical treatments that are effective if administered in a timely manner after the heart attack or the first onset of symptoms of a stroke; and~~

~~WHEREAS, Advances in the prevention and treatment of stroke, heart disease and other vascular disease have improved the quality of life for millions of American men and women; and~~

~~WHEREAS, The Institute of Medicine of the National Academies has concluded that the fragmentation of the delivery of health care services for victims of stroke frequently results in suboptimal treatment, concerns for the safety of the victims and the inefficient use of health care resources; and~~

~~WHEREAS, The Institute of Medicine has recommended the establishment of a coordinated system of care that integrates services for the prevention and treatment of stroke; and~~

~~WHEREAS, The main purpose of such a coordinated system includes the establishment and recognition of stroke centers, emergency medical services, protocols and field triage, proper transfer of victims of stroke between health facilities and the statewide collection of data relating to stroke; and~~

~~WHEREAS, The establishment of a State Program for Vascular Health is necessary to:~~

~~1. Increase public knowledge and awareness of the prevention and treatment of stroke and heart attack and the recognition of the onset of symptoms to ensure effective medical treatment in a timely manner; and~~

~~2. Develop a coordinated system to effectuate true change in the way victims of stroke and heart attack are treated statewide and to ensure that those victims have access to the most advanced treatment; and~~

~~WHEREAS, The members of the 74th Session of the Legislature hereby recognize the importance of vascular health and the establishment of a State Program for Vascular Health, now therefore,]~~

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. *As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Committee" means the Advisory Committee for Vascular Health created by section 14 of this act.*

Sec. 4. *"Coordinator" means the Coordinator for Vascular Health appointed pursuant to section 12 of this act.*

Sec. 5. *"Hospital" has the meaning ascribed to it in NRS 449.012.*

Sec. 6. ~~*["Plan" means the State Plan for the Recommended Prevention and Treatment of Stroke adopted pursuant to section 16 of this act.]*~~ (Deleted by amendment.)

Sec. 7. *"Primary prevention" means the treatment of risk factors for stroke, heart disease and other vascular disease in the general population before the onset of any symptoms.*

Sec. 8. "Program" means the State Program for Vascular Health established pursuant to section 11 of this act.

Sec. 9. "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 10. "Secondary prevention" means the treatment of patients who have developed symptoms of stroke, heart disease or other vascular disease that is designed to prevent the onset of additional symptoms and attacks of the condition.

Sec. 11. The Health Division shall establish the State Program for Vascular Health to increase public knowledge and raise public awareness relating to vascular health, including, without limitation, the prevention and treatment of stroke, heart disease and other vascular disease. The Program must not limit or otherwise address options concerning the transfer of a patient.

Sec. 12. ~~1. The Administrator shall appoint a Coordinator for Vascular Health. The Coordinator must have at least the following education and experience:~~

~~(a) A bachelor's degree in public health policy or a related field; and~~

~~(b) At least 5 years of work experience in the area of public health policy or a related field.~~

~~2. If the qualifications of the applicants are equal, preference must be given to a person with a master's degree or graduate degree in medicine, public health policy or a related field, or a person with more than 5 years of work experience in public health policy or a related field.~~

~~2. The Coordinator is in the unclassified service of the State and serves at the pleasure of the Administrator.~~ appropriate education and experience in public health or a related field.

Sec. 13. ~~1. The Coordinator shall:~~

~~(a) 1. Facilitate discussion and collaboration concerning the proper care of victims of stroke, heart disease and other vascular disease among:~~

~~(1) (a) Providers of health care who provide services to victims of stroke, heart disease and other vascular disease;~~

~~(2) (b) Physicians who provide emergency medical services;~~

~~(3) (c) County and local agencies that provide emergency medical services;~~

~~(4) (d) Hospitals;~~

~~(5) (e) The Board of Medical Examiners and other boards responsible for issuing a license to a provider of health care;~~

~~(6) (f) Providers of health insurance; and~~

~~(7) (g) Any other person deemed appropriate by the Coordinator who provides services to victims of stroke, heart disease and other vascular disease.~~

~~(b) 2. Establish a comprehensive plan for the prevention of stroke, heart disease and other vascular disease with an emphasis on developing a policy for primary prevention and secondary prevention to eliminate the~~

disparities in vascular health among populations that are disproportionately affected by stroke, heart disease and other vascular disease.

~~[(e)]~~ 3. Identify appropriate methods by which to promote vascular health among populations that are disproportionately affected by stroke, heart disease and other vascular disease.

~~[(d)]~~ 4. Assist the Health Division with public education campaigns pursuant to section 18 of this act.

~~[(e)] Support changes, as the Coordinator determines appropriate, to the system of health care in this State to ensure proper quality of care for victims of stroke, heart disease and other vascular disease and the implementation of measures for the prevention of stroke, heart disease and other vascular disease.~~

~~[(f)] Implement, monitor and evaluate strategies and programs for the prevention of stroke, heart disease and other vascular disease provided at medical facilities, in the community, at schools and through employers in this State.~~

~~[(g)] Offer training and technical assistance to providers of health care and public health professionals, including, without limitation, training to recognize a person who has a disproportionate risk of stroke and training for the prevention of stroke, heart disease and other vascular disease.~~

~~[(h)] Establish a mechanism for evaluating whether a medical facility, including, without limitation, a facility that offers rehabilitative services to victims of stroke, provides proper care to victims of stroke.~~

~~[(i)] Monitor the quality of strategies for the prevention of stroke, heart disease and other vascular disease throughout this State.~~

~~[(j)]~~ 5. Assist providers of health care, hospitals and other facilities and organizations in procuring grants of money to improve vascular health.

~~[(k)] Assist the Health Division in developing and maintaining a database of information relating to victims of stroke pursuant to section 18 of this act.~~

~~[(l)]~~ 6. Facilitate, monitor and evaluate strategies and programs for the prevention of stroke, heart disease and other vascular disease.

7. Perform such other duties relating to vascular health as may be required by the Administrator.

~~[(2)] As used in this section, "medical facility" has the meaning ascribed to it in NRS 449.0151.~~

Sec. 14. 1. The Advisory Committee for Vascular Health is hereby created.

2. The Committee consists of ~~[(13)]~~ 14 members. The ~~[(Administrator and the Coordinator serve)]~~ State Health Officer serves as an ex officio voting ~~[(members)]~~ member of the Committee.

3. The Administrator shall appoint to the Committee:

(a) ~~[(Two neurologists who are)]~~ A neurologist who is licensed to practice in this State and who ~~[(are)]~~ is experienced in treating victims of stroke, ~~[(one~~

~~of whom must be a resident of northern Nevada and one of whom must be a resident of southern Nevada;~~

~~(b) Two physicians who are] or a physician who is licensed to practice in this State and who [work] works in an emergency room [, one of whom must be a resident of northern Nevada and one of whom must be a resident of southern Nevada.];~~

(b) A provider of emergency medical services;

(c) A representative of the Health Division whose primary responsibilities relate to the licensure and certification of persons who provide emergency medical services;

(d) A representative of a health district created pursuant to NRS 439.362 whose primary responsibilities relate to the licensure and certification of persons who provide emergency medical services;

~~(e) [A representative]~~ **Two representatives of the American Heart Association or its successor, one of whom is a representative from a local chapter or the state chapter of the American Stroke Association or its successor [, a division of the American Heart Association or its successor.];**

~~(f) A representative of [an organization committed to the prevention of chronic diseases.];~~ **a school of public health of the Nevada System of Higher Education;**

(g) A representative from rural Nevada;

(h) A representative of hospitals in this State;

(i) A representative of administrators, individual health insurers, group health insurers, nonprofit hospitals, medical and dental service corporations, health maintenance organizations, collectively bargained plans, self-funded plans or other entities that pay claims under a contract for health insurance;

(j) One person selected from the list of nominees provided by the Governor pursuant to subsection 4;

~~[(k)]~~ **(k) One person selected from the list of nominees provided by the Majority Leader of the Senate pursuant to subsection 4; and**

~~[(l)]~~ **(l) One person selected from the list of nominees provided by the Speaker of the Assembly pursuant to subsection 4.**

4. On or before May 1 of each odd-numbered year, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall each submit to the Administrator a list of nominees containing the name of:

(a) One representative of a population disproportionately affected by heart disease or stroke;

(b) One registered nurse who is licensed to practice professional nursing in this State; and

(c) One person who is a ~~victim]~~ survivor of stroke.

➔ From among the nominees submitted, the Administrator shall appoint to the Committee one person from each of the three categories listed in this subsection.

5. *The Committee shall elect a Chairman and a Vice Chairman from among its members. After the initial election, each of those officers holds office for a term of 2 years beginning on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall elect a replacement for the remainder of the unexpired term.*

6. *After the initial terms, each member of the Committee serves a term of 2 years beginning on July 1 ~~of each odd-numbered year.~~ A member may be reappointed for additional terms of 2 years.*

7. *A vacancy on the Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.*

8. *The members of the Committee serve without compensation. If sufficient money is available, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Committee or otherwise engaged in the business of the Committee.*

9. *The Health Division shall provide administrative support to the Committee.*

Sec. 15. *The Committee shall:*

1. *Adopt rules for its own governance.*
2. *Meet at least once each calendar quarter and at other times upon the call of the Chairman.*
3. *Advise and make recommendations to the Coordinator and the Health Division in carrying out the Program.*
4. *On or before May 1 of each year, submit a written report to the Health Division summarizing the activities of the Committee and ~~the effectiveness of the Plan.~~ any recommendations it has made.*
5. *In carrying out its duties, solicit suggestions and information from:*
 - (a) *Providers of emergency medical services;*
 - (b) *Associations of medical professionals;*
 - (c) *Hospitals;*
 - (d) *The Health Division; ~~and~~*
 - (e) *The Board of Medical Examiners and other boards responsible for issuing a license to a provider of health care ~~+~~; and*
 - (f) *Other persons with interests relating to vascular health as deemed necessary by the Committee.*

Sec. 16. ~~*1. The Committee shall adopt the State Plan for the Recommended Prevention and Treatment of Stroke. The Plan must include, without limitation, recommendations for:*~~

- ~~(a) *Training for practitioners licensed in this State in rapid assessment, triage and management of victims of acute stroke.*~~
- ~~(b) *Protocols for the transport of victims of acute stroke to an appropriate hospital by an emergency medical responder.*~~

~~(c) Standards for quality assurance for hospitals and other facilities that provide services to victims of stroke and methods to monitor compliance with the standards.~~

~~(d) The procedure by which a hospital or other facility may amend its license to operate as a center for the treatment of victims of stroke pursuant to NRS 449.087.~~

~~(e) Standards for quality assurance for a hospital or other facility that operates as a center for the treatment of victims of stroke pursuant to NRS 449.087, including, without limitation, applicable guidelines of the American Stroke Association or its successor.~~

~~(f) Guidelines for a hospital or other facility to follow when preparing a plan of care for a victim of stroke.~~

~~(g) The information relating to victims of stroke for inclusion in the database established and maintained by the Health Division pursuant to section 18 of this act.~~

~~(h) Reporting requirements for all hospitals and facilities that provide services to victims of stroke.~~

~~(i) Guidelines for the establishment of a telemedicine network pursuant to section 18 of this act.~~

~~(j) Procedures to assist a center for the treatment of victims of stroke in procuring grants of money to implement the standards for quality assurance recommended pursuant to paragraph (c).~~

~~(k) Methods for reducing health care costs associated with stroke, heart disease and other vascular disease.~~

~~2. The standards for quality assurance recommended pursuant to paragraph (c) of subsection 1 must include, without limitation, a declaration that:~~

~~(a) All victims of stroke should receive rapid triage and an assessment by a competent provider of health care to increase the likelihood of a favorable poststroke outcome;~~

~~(b) Candidacy for reperfusion therapy should be established in a timely manner for all victims of acute ischemic stroke;~~

~~(c) All victims of stroke deserve access to appropriate rehabilitation services;~~

~~(d) Each person with a disproportionate risk for stroke should be properly evaluated to develop an appropriate plan for the prevention of stroke; and~~

~~(e) All victims of stroke deserve access to secondary prevention that has proven effective.~~

~~3. The Committee shall review the Plan annually and make revisions as it deems necessary.] (Deleted by amendment.)~~

~~Sec. 17. [The State Board of Health shall review all recommendations contained in the Plan periodically and adopt regulations if deemed necessary by the Board to carry out a part or parts of the Plan within the jurisdiction of the Board.] (Deleted by amendment.)~~

Sec. 18. *The Health Division shall:*

~~1. Review all recommendations contained in the Plan periodically and make recommendations to the State Board of Health for the adoption of regulations to carry out a part or parts of the Plan within the jurisdiction of the Board.~~

~~2. Establish and maintain a database of information relating to victims of stroke in this State. The Health Division shall consider the recommendations contained in the Plan when determining the information for inclusion in the database.~~

~~3. Conduct public education campaigns to increase public awareness about the signs and symptoms of stroke, heart disease and other vascular disease and the need to call emergency medical services at the onset of symptoms. The campaigns must include, without limitation, providing educational materials and information concerning vascular health in written form, public service announcements and the development and maintenance of a website.~~

~~4. Establish a system to provide, via telemedicine and other electronic means, triage, assessment and treatment to victims of stroke in rural areas of this State. The Health Division shall consider the guidelines contained in the Plan in establishing the system.~~

~~5. Provide assistance to facilities licensed to operate as a center for the treatment of victims of stroke pursuant to NRS 449.087 in obtaining grants, gifts and donations.~~

~~6. 2. On or before July 1 of each year, prepare and submit a report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature which summarizes:~~

- ~~(a) The activities of the Coordinator and the Committee;~~
- ~~(b) The effectiveness of the public education campaigns conducted pursuant to this section;~~
- ~~(c) The activities undertaken to carry out the Program; and~~
- ~~(d) The effectiveness of the Plan; and~~
- ~~(e) Any recommendations of the Health Division, the Coordinator or the Committee concerning the prevention and treatment of stroke, heart disease and other vascular disease in this State.~~

Sec. 19. 1. The Health Division may:

- (a) Enter into contracts for any service necessary to carry out the provisions of sections 2 to 19, inclusive, of this act; and
- (b) Apply for and accept gifts, grants, donations and bequests from any source to carry out the provisions of sections 2 to 19, inclusive, of this act.

2. Any money collected pursuant to subsection 1 and any money appropriated to carry out the provisions of sections 2 to 19, inclusive, of this act:

- (a) Must be deposited in the State Treasury and accounted for separately in the State General Fund; and

(b) Except as otherwise provided by the terms of a specific gift, grant, donation or bequest, must only be expended to carry out the provisions of sections 2 to 19, inclusive, of this act.

3. The Administrator shall administer the account. Any interest or income earned on the money in the account must be credited to the account.

4. Any claims against the account must be paid as other claims against the State are paid.

Sec. 20. ~~NRS 449.087 is hereby amended to read as follows:~~

~~449.087 1. A licensee must obtain the approval of the Health Division to amend his license to operate a facility before the addition of any of the following services:~~

~~(a) The intensive care of newborn babies.~~

~~(b) The treatment of burns.~~

~~(c) The transplant of organs.~~

~~(d) The performance of open heart surgery.~~

~~(e) A center for the treatment of trauma.~~

~~(f) A center for the treatment of victims of stroke.~~

~~2. The Health Division shall approve an application to amend a license to allow a facility to provide any of the services described in subsection 1 if the applicant satisfies the requirements contained in NRS 449.080. The Health Division may revoke its approval if the licensee fails to maintain substantial compliance with standards approved by the Board for the provision of such services, or with any conditions included in the written approval of the Director issued pursuant to the provisions of NRS 439A.100.~~

~~3. The Board shall consider standards adopted by appropriate national organizations as a guide for adopting standards for the approval of the provision of services pursuant to this section.~~

~~4. In addition to subsection 3, the Board shall consider the recommendations of the Advisory Committee for Vascular Health created by section 14 of this act relating to the standards for a center for the treatment of victims of stroke.] (Deleted by amendment.)~~

Sec. 21. 1. On or before ~~September 1, 2007,] March 1, 2008,~~ the Administrator of the Health Division of the Department of Health and Human Services shall appoint the following members to the Advisory Committee for Vascular Health created by section 14 of this act:

(a) One member each pursuant to paragraphs (a), ~~[(b),] (c), (f), [and (h)] (g), (j), (k) and (l)~~ of subsection 3 of section 14 of this act to an initial term commencing on ~~September 1, 2007,] March 1, 2008,~~ and expiring on June 30, ~~[2008.] 2009.~~

(b) One member each pursuant to paragraphs ~~[(a),] (b), (d), [(e), (g) and (h)] (h) and (i)~~ of subsection 3 of section 14 of this act **and two members pursuant to paragraph (e) of subsection 3 of section 14 of this act** to an initial term commencing on ~~September 1, 2007,] March 1, 2008,~~ and expiring on June 30, ~~[2009.]~~

~~2. The Advisory Committee for Vascular Health created by section 14 of this act shall adopt the State Plan for the Recommended Prevention and Treatment of Stroke pursuant to section 16 of this act on or before March 1, 2008.] 2010.~~

2. On or before February 1, 2008, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall submit lists of nominees for appointment to the Advisory Committee for Vascular Health to the Administrator of the Health Division pursuant to subsection 4 of section 14 of this act.

Sec. 22. This act becomes effective on July 1, 2007.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 365.

Bill read second time.

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

Amendment No. 528.

AN ACT relating to real estate; authorizing the Real Estate Division of the Department of Business and Industry to create and maintain ~~fa-secure website~~ **secure websites** on the Internet for the renewal of licenses, permits, certificates and registrations issued by the Division; authorizing the Division to charge an additional fee for each such renewal under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the expiration and renewal of licenses issued by the Real Estate Division of the Department of Business and Industry. ~~(NRS 645.780)~~ **Chapters 116A and 119A of NRS, NRS 119.165, 119B.200, 645.780, 645C.390, 645D.230** This bill authorizes the Division to create and maintain ~~fa~~ secure Internet ~~website~~ **websites** for the renewal of licenses, permits, certificates and registrations issued by the Division. This bill also authorizes the Division to charge, in addition to any other fee, a fee for each renewal made through the use of such a website, not to exceed the cost to the Division for providing that service.

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

Section 1. NRS 645.780 is hereby amended to read as follows:

645.780 1. Each license issued under the provisions of this chapter expires at midnight on the last day of the last month of the applicable license period for the license.

2. The initial license period for an original license as a real estate broker, broker-salesman or salesman is a period of 12 consecutive months beginning on the first day of the first calendar month after the original license is issued

by the Division. Thereafter, each subsequent license period is a period of 24 consecutive months beginning on the first day of the first calendar month after a renewal of the license is issued by the Division for the subsequent license period.

3. For all other licenses, the license period is a period of 24 consecutive months beginning on the first day of the first calendar month after the license or any renewal of the license is issued by the Division, unless a specific statute:

- (a) Provides for a different license period; or
- (b) Expressly authorizes a different license period to be provided for by regulation.

4. *The Division may:*

(a) Create and maintain a secure website on the Internet through which each license, permit, certificate or registration issued pursuant to the provisions of this chapter may be renewed; and

(b) For each license, permit, certificate or registration renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 2. NRS 645C.390 is hereby amended to read as follows:

645C.390 1. The Division shall issue a certificate, license or registration card to each eligible person in the form and size prescribed by the Commission. A certificate, license or registration card must:

- (a) Show the name and address of the appraiser or intern and the location of each place where he transacts business as an appraiser or intern;
- (b) Have imprinted thereon the seal of the Commission; and
- (c) Contain any additional matter prescribed by the Commission.

2. A certificate, license or registration card is valid for 2 years after the first day of the first calendar month immediately following the date it is issued.

3. If an appraiser fails to apply for the renewal of his certificate or license and pay the fee for renewal before the certificate or license expires, and then applies for renewal:

- (a) No later than 1 year after the date of expiration, he must pay a fee equal to 150 percent of the amount otherwise required for renewal.
- (b) Later than 1 year after the date of expiration, he must apply in the same manner as for an original certificate or license.

4. *The Division may:*

(a) Create and maintain a secure website on the Internet through which each certificate, license or registration card issued pursuant to the provisions of this chapter may be renewed; and

(b) For each certificate, license or registration card renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter

which must not exceed the actual cost to the Division for providing that service.

Sec. 3. NRS 645D.230 is hereby amended to read as follows:

645D.230 1. The Division shall issue a certificate to each eligible person in the form and size prescribed by the Division. A certificate must:

- (a) Indicate the name and address of the inspector and the location of each place where he transacts business as an inspector; and
- (b) Contain any additional matter prescribed by the Division.

2. A certificate is valid for 2 years after the first day of the first calendar month immediately following the date it is issued.

3. If an inspector fails to apply for the renewal of his certificate and pay the fee for renewal before the certificate expires, and applies for renewal:

(a) Not later than 1 year after the date of expiration, he must pay a fee equal to 150 percent of the amount otherwise required for renewal.

(b) Later than 1 year after the date of expiration, he must apply in the same manner as for an original certificate.

4. The Division may:

(a) Create and maintain a secure website on the Internet through which each certificate issued pursuant to the provisions of this chapter may be renewed; and

(b) For each certificate renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 4. Chapter 116A of NRS is hereby amended by adding thereto a new section to read as follows:

The Division may:

1. Create and maintain a secure website on the Internet through which each certificate or permit issued pursuant to the provisions of this chapter may be renewed; and

2. For each certificate or permit renewed through the use of a website created and maintained pursuant to subsection 1, charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 5. Chapter 119 of NRS is hereby amended by adding thereto a new section to read as follows:

The Division may:

1. Create and maintain a secure website on the Internet through which each registered representative's license issued pursuant to the provisions of this chapter may be renewed; and

2. For each registered representative's license renewed through the use of a website created and maintained pursuant to subsection 1, charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 6. NRS 119.165 is hereby amended to read as follows:

119.165 1. A developer's permit must be renewed annually by the developer by filing an application with and paying the fee for renewal to the Administrator. The application must be filed and the fee paid not later than 30 days before the date on which the permit expires. The application must include any change that has occurred in the information previously provided to the Administrator or in a property report provided to a prospective purchaser pursuant to the provisions of NRS 119.182.

2. The renewal is effective on the 30th day after the filing of the application unless the Administrator:

(a) Denies the renewal pursuant to NRS 119.325 or for any other reason;

or

(b) Approves the renewal on an earlier date.

3. The Division may:

(a) Create and maintain a secure website on the Internet through which each developer's permit issued pursuant to the provisions of this chapter may be renewed; and

(b) For each developer's permit renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 7. Chapter 119A of NRS is hereby amended by adding thereto a new section to read as follows:

The Division may:

1. Create and maintain a secure website on the Internet through which each license, permit or registration issued pursuant to the provisions of this chapter may be renewed; and

2. For each license, permit or registration renewed through the use of a website created and maintained pursuant to subsection 1, charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 8. NRS 119B.200 is hereby amended to read as follows:

119B.200 1. A permit must be renewed annually by the developer by filing the application with and paying the fee for renewal to the Administrator. The application must be filed and the fee paid not later than the 30th day before the date of expiration and must include any change that has occurred in the information previously provided to the Administrator or in a statement of disclosure provided to a prospective member pursuant to the provisions of NRS 119B.270.

2. The renewal is effective on the 30th day after the filing of the application unless the Administrator:

(a) Denies the renewal; or

(b) Sooner approves the renewal.

3. The Division may:

(a) Create and maintain a secure website on the Internet through which each permit issued pursuant to the provisions of this chapter may be renewed; and

(b) For each permit renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

~~{Sec. 2.}~~ **Sec. 9.** This act becomes effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 367.

Bill read second time.

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

Amendment No. 504.

SUMMARY—Requires employment of **an administrator to provide services to** outreach coordinators ~~{to}~~ **who provide education and** information relating to resources available for adults with disabilities. (BDR 38-847)

AN ACT relating to persons with disabilities; requiring the Director of ~~the Department of Health and Human Services~~ **a certain family resource center** to employ **an administrator to provide certain services** to two outreach coordinators ~~{to}~~ **who provide education and** information relating to the availability of services, programs, financial assistance and other resources for adults with disabilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Director of the ~~Department of Health and Human Services~~ **Ron Wood Family Resource Center** to employ **an administrator to provide education, information and oversight to** a Northern Nevada Outreach Coordinator and a Southern Nevada Outreach Coordinator. ~~{to}~~ **The Outreach Coordinators** provide ~~education and~~ information relating to services, programs, financial assistance and other resources that are available to adults with disabilities and their families from the Department ~~{}~~ **of Health and Human Services**, the Federal Government, local governments and private organizations. **This bill requires the Outreach Coordinators to be graduate students at the University of Nevada, Reno, and the University of Nevada, Las Vegas, who are engaged in a practicum or internship that is a requirement for their degrees.**

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 sections 1 and 2:

Section 1. Chapter 430A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director of the Ron Wood Family Resource Center shall employ a part-time administrator, not more than 30 hours per week, to provide education, information and oversight to a Northern Nevada Outreach Coordinator and a Southern Nevada Outreach Coordinator.

2. Each Outreach Coordinator shall, under the auspices of the Ron Wood Family Resource Center, provide information relating to the services, programs, financial assistance and other resources that are available to adults with disabilities and their families. The resources for which education and information must be provided include, without limitation, the resources available from the Department of Health and Human Services, the Federal Government, local governments and private organizations.

3. An Outreach Coordinator must be:

(a) A graduate student in a field of study approved by the Director of the Ron Wood Family Resource Center; and

(b) Engaged in a practicum or internship in fulfillment of a requirement for his graduate degree.

↪ The Northern Nevada Outreach Coordinator must be enrolled at the University of Nevada, Reno, and the Southern Nevada Outreach Coordinator must be enrolled at the University of Nevada, Las Vegas.

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

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed 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. 283.

AN ACT relating to loans; requiring the Commissioner of Mortgage Lending to adopt certain regulations concerning investors and limitations on loans to directors, officers and employees; 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; requiring a mortgage banker to ensure that each loan secured by a lien on real property ~~is serviced by certain third parties and includes a minimum fee for servicing;~~ **includes a reasonable fee for servicing the loan and that the fee is deposited in a trust account;** 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)

Sections ~~1 and 7~~ **2 and 9** of this bill : (1) require 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 ~~is serviced by a third party who is not affiliated with the mortgage broker or mortgage banker and that the loan includes a certain minimum~~ **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 ~~[2]~~ **3** of this bill prohibits ~~the Commissioner from issuing, renewing or reinstating a license as~~ a mortgage broker ~~[if the mortgage broker]~~ **who is licensed or exempt from licensing as a broker-dealer, sales representative, investment advisor or representative of an investment advisor under the laws of this State ~~[]~~ from commingling money received from mortgage transactions with money received from securities transactions.**

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 ~~[2]~~ **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 ~~[3 and 8]~~ **5 and 11** of this bill require 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.

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 ~~[4]~~ **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.

~~[Section 9 of this bill provides for the temporary validity of a license as a mortgage broker if the license would otherwise be rendered invalid by the amendatory provisions of section 2 of 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~~ ~~new section to read as follows:~~

~~A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker:~~

~~1. Is serviced by a third party who is not affiliated with the mortgage broker; and~~

~~2. Includes a fee for servicing the loan in an amount that is not less than 0.25 percent of the total amount of principal of the loan.~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. A mortgage broker shall ensure that:

(a) 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 or a representative of an investment advisor 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. 2.} Sec. 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] Except as otherwise provided in subsection 10, 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 \$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 \$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, \$1,500 for the principal office and \$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, \$1,000 for the principal office and \$60 for each branch office.~~

~~(c) To renew a license, \$500 for the principal office and \$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, \$200.~~

~~(b) To renew a certificate of exemption, \$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 \$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 any fee set forth in this section if the Commissioner determines that such an increase is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any increase 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.~~

~~10. The Commissioner shall not issue, renew or reinstate a license as a mortgage broker if the mortgage broker is:~~

~~(a) A broker dealer or sales representative who is exempt from licensing pursuant to NRS 90.320; or~~

~~(b) An investment advisor, sales representative or representative of an investment advisor who is exempt from licensing pursuant to NRS 90.340.]~~

(Deleted by amendment.)

~~{Sec. 3.} 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 limitations 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.

~~[(e)]~~ (d) 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.

~~{Sec. 4.}~~ **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. 5.}~~ **Sec. 7.** ~~{NRS 645B.490 is hereby amended to read as follows:~~

~~645B.490 1. Any mortgage broker or mortgage agent licensed under the provisions of this chapter who is called into the military service of the United States shall, at his request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.~~

~~2. [At] Except as otherwise provided in NRS 645B.050, at any time within 6 months after termination of such service, if the mortgage broker or mortgage agent complies with the provisions of subsection 1, the mortgage broker or mortgage agent may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or 645B.430, and the mortgage broker or mortgage agent is not required to make payment of the renewal fee for the current year.~~

~~3. Any mortgage broker or mortgage agent seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his honorable discharge or certificate of satisfactory service to the Commissioner.] (Deleted by amendment.)~~

~~{Sec. 6.}~~ **Sec. 8.** ~~{NRS 645B.680 is hereby amended to read as follows:~~

~~645B.680 1. If the Commissioner 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 mortgage broker or mortgage agent, the Commissioner 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 Commissioner 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] Except as otherwise provided in NRS 645B.050, the Commissioner shall reinstate a license as a mortgage broker or mortgage agent that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner 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.] (Deleted by amendment.)~~

~~[Sec. 7.]~~ **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 ~~each~~ :

(a) Each loan secured by a lien on real property for which he engages in activity as a mortgage banker ~~+~~

~~1. Is serviced by a third party who is not affiliated with the mortgage banker; and~~

~~2. Includes] includes a fee for servicing the loan [in an amount that is not less than 0.25 percent of the total amount of principal of] 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.

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. 8.}~~ **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 limitations 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.

~~{{e}}~~ (d) 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.

~~{Sec. 9} Sec. 12. [Notwithstanding the provisions of NRS 645B.050 as amended by section 2 of this act to the contrary, if the Commissioner of Mortgage Lending is prohibited by those provisions from renewing or reinstating a license as a mortgage broker, the license remains in effect until its expiration unless earlier suspended, cancelled or revoked.] (Deleted by amendment.)~~

~~{Sec. 10} Sec. 13. [1.]~~ This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2007, for all other purposes.

~~{ 2. Section 6 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.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 383.

Bill read second time.

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

Amendment No. 598.

~~SUMMARY—[Requires the Labor Commissioner to include a link on his website to the Social Security Administration.]~~ **Makes various changes to laws related to immigration. (BDR ~~{53-1053}~~ 15-1053)**

AN ACT relating to ~~employment;~~ **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 ~~Labor Commissioner~~ Director of the Department of Business and Industry to include ~~a link~~ on ~~his~~ 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 against a person who holds a state business license if the person 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:

~~[Chapter 607 of NRS sets forth the duties of the Labor Commissioner. This bill expands those duties to require the Labor Commissioner.]~~ **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 ~~his~~ 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, 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.

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 ~~1A~~ 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 ~~(1)~~ 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 ~~1.3~~, **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.

~~Section 1.~~ **Sec. 6.** Chapter ~~607~~ **232** of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The Labor Commissioner~~ Director shall include on ~~his~~ 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.

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, 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. 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.

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, ~~it is~~ **or section 1.3 of this act,** a violation of any of the provisions of this section is a gross misdemeanor.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 384.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 460.

AN ACT relating to elections; enacting the Agreement Among the States to Elect the President by National Popular Vote; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the nominees for presidential elector of the candidates for President and Vice President who receive the highest number of votes in this State at the general election thereby become the official presidential electors for this State. (NRS 298.025) After being selected, the official presidential electors convene to vote for President and Vice President. The official presidential electors are bound to vote for the nominees for President and Vice President that prevailed in this State at the general election. (NRS 298.050) This bill provides that the nominees for presidential elector of the candidates for President and Vice President who received the highest number of votes in the nation would become the official presidential electors for Nevada. The provisions of this bill will become effective on the date that states with enough electoral votes to equal a majority of the electoral votes have adopted this agreement (270 of 538).

This bill contains the text of the Agreement Among the States to Elect the President by National Popular Vote without any changes necessary to conform to Nevada law because each state wishing to participate in the compact is required to enact the same 888 words, in addition to the enacting clause contained in the Agreement.

Section 5 of this bill makes an appropriation of \$250,000 to the Secretary of State for a voter education campaign.

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

Section 1. Chapter 298 of NRS is hereby amended by adding thereto a new section to read as follows:

The Agreement Among the States to Elect the President by National Popular Vote is hereby enacted into law and entered into with all jurisdictions legally joining the Compact, in substantially the form set forth in this section:

Article I—Membership

Any State of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

Article II—Right of the People in Member States to Vote for President and Vice President

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

Article III—Manner of Appointing Presidential Electors in Member States

Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each State of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a “national popular vote total” for each presidential slate.

The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the “national popular vote winner.”

The presidential elector certifying official of each member state shall certify the appointment in that official’s own state of the elector slate nominated in that state in association with the national popular vote winner.

At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state’s final determination conclusive as to the counting of electoral votes by Congress.

In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the

presidential slate receiving the largest number of popular votes within that official's own state.

If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees. The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

Article IV—Other Provisions

This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President or Vice President shall have been qualified to serve the next term.

The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

This agreement shall terminate if the electoral college is abolished.

If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

Article V—Definitions

For purposes of this agreement,

“chief executive” shall mean the Governor of a State of the United States or the Mayor of the District of Columbia;

“elector slate” shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;

“chief election official” shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate;

“presidential elector” shall mean an elector for President and Vice President of the United States;

“presidential elector certifying official” shall mean the state official or body that is authorized to certify the appointment of the state’s presidential electors;

“presidential slate” shall mean a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;

“state” shall mean a State of the United States and the District of Columbia;

and “statewide popular election” shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

Sec. 2. NRS 298.025 is hereby amended to read as follows:

298.025 Presidential electors are not nominated at the primary election or placed upon the general election ballot . ~~[, but the nominees of the presidential and vice presidential candidates who receive the highest number of votes at the general election thereby become the official presidential electors.]~~ The presidential electors shall perform the duties of such electors as required by law and the Constitution of the United States.

Sec. 3. NRS 298.050 is hereby amended to read as follows:

298.050 The presidential electors, when convened, shall vote by ballot for one person for President and one person for Vice President of the United States, one of whom, at least, must not be an inhabitant of this State. ~~[The presidential electors shall vote only for the nominees for President and Vice President of the party or the independent candidates that prevailed in this State in the preceding general election.]~~

Sec. 4. NRS 298.040 is hereby repealed.

Sec. 5. 1. There is hereby appropriated from the State General Fund to the Secretary of State the sum of \$250,000 for a voter education campaign.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner,

and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or to the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

~~Sec. 5.~~ **Sec. 6.** 1. This section and section 1 of this act become effective upon passage and approval.

2. **Section 5 of this act becomes effective on July 1, 2007.**

3. Sections 2, 3 and 4 of this act become effective on the date the Agreement Among the States to Elect the President by National Popular Vote becomes effective as provided in Article IV of that Agreement and if that Agreement governs the appointment of presidential electors for a presidential election as provided in Article III of that Agreement.

TEXT OF REPEALED SECTION

298.040 Filling vacancy upon death or absence of presidential elector. In case of the death or absence of any presidential elector chosen, or if the number of presidential electors shall from any cause be deficient, the national committeewoman, the national committeeman and the state chairman of the party whose nominees for President and Vice President received the greatest number of votes in the State at the next preceding general election shall forthwith elect, from the qualified electors of this State registered as affiliated with such prevailing party, as many persons as will supply the deficiency. A majority of such three party officials shall be sufficient to fill such vacancies.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 393.

Bill read second time.

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

Amendment No. 524.

AN ACT relating to motor vehicles; **amending provisions relating to the wrecking and salvaging of vehicles;** transferring the authority for the regulation of trade practices by garagemen from the Commissioner of Consumer Affairs to the Department of Motor Vehicles; requiring that a transferor of an interest in a motor vehicle indicate if the vehicle is a rebuilt vehicle or a reconstructed vehicle; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill sets forth the conditions under which an automobile wrecker, operator of a salvage pool, garageman or owner of a body shop is unfit to hold a license or registration, as applicable.

Section 4 of this bill set forth the conditions under which a salvage vehicle is considered to be in its entirety as opposed to when it is considered to be in parts.

Existing law provides for regulation of garages and garagemen by the Commissioner of Consumer Affairs and their registration with the Department of Motor Vehicles. (NRS 487.530-487.570, 597.480-597.590) Sections ~~2-44~~ **5-19** of this bill transfer authority for regulation to the Department and provide for **joint** enforcement of those provisions by the Director of the Department **and the Commissioner**. Section ~~20~~ **36** of this bill requires that a transferor of an interest in a motor vehicle indicate if the vehicle is a rebuilt vehicle or a reconstructed vehicle.

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

Section 1. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~44~~ **19**, inclusive, of this act.

Sec. 2. As used in this section, NRS 487.050 to 487.200, inclusive, and sections 3 and 4 of this act, unless the context otherwise requires, "automobile wrecker" or "wrecker" means a person who obtains a license to dismantle, scrap, process or wreck any vehicle, including, without limitation, wrecked, salvage, nonrepairable, abandoned and junk vehicles, which includes, without limitation, removing or selling an individual part or parts of such a vehicle or crushing, shredding or dismantling such a vehicle to be disposed of as scrap metal.

Sec. 3. Evidence of unfitness of an applicant, registrant or licensee for purposes of denial, suspension or revocation of or failure to renew a license or registration as an automobile wrecker, operator of a salvage pool, garageman or owner of a body shop may consist of, but is not limited to, the applicant, registrant or licensee:

1. Purchasing, selling, dismantling, disposing of or having in his possession any vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

2. Being the former holder of, or being a partner, officer, director, owner or manager involved in management decisions of, an automobile wrecker that held a license issued pursuant to this chapter which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of the State of any taxes or fees in connection with the sale or transfer of a vehicle.

4. Forging the signature of the registered or legal owner of an abandoned vehicle on any document that releases the interest of the owner in the abandoned vehicle.

5. Forging the signature of the registered or legal owner of a vehicle on a certificate of title or other document to obtain or transfer ownership in that vehicle.

6. Willfully failing to deliver to a purchaser a salvage title to a vehicle that the applicant, registrant or licensee has sold.

7. Refusing to allow any peace officer or agent of a state agency to inspect, during normal business hours, all books, records and files of the applicant, registrant or licensee which are maintained within the State.

8. Committing any fraud which includes, without limitation:

(a) Misrepresenting in any manner, whether intentional or grossly negligent, a material fact.

(b) Intentionally failing to disclose a material fact.

9. Willfully failing to comply with any regulation adopted by the Department.

Sec. 4. 1. Whenever an entire salvage vehicle is sold to any person by a licensed automobile wrecker, the automobile wrecker shall deliver a properly endorsed salvage title to the buyer for such an entire salvage vehicle.

2. A salvage vehicle shall be deemed an entire salvage vehicle:

(a) If all the following essential components are included and identifiable as coming from the same salvage vehicle:

(1) The cowl assembly;

(2) The floor pan assembly;

(3) The passenger compartment;

(4) The rear clip assembly; and

(5) The roof assembly; and

(b) In addition to the essential components required pursuant to paragraph (a):

(1) If the salvage vehicle was manufactured with a conventional frame, the conventional frame is included and identifiable as coming from the same salvage vehicle;

(2) If the salvage vehicle was manufactured with a unibody, the complete front inner structure is included and identifiable as coming from the same salvage vehicle;

(3) If the salvage vehicle is a truck which was manufactured with a conventional frame, the conventional frame and the truck cab assembly are included and identifiable as coming from the same salvage vehicle; and

(4) If the salvage vehicle is a truck which was manufactured with a unibody, the complete front inner structure and the truck cab assembly are included and identifiable as coming from the same salvage vehicle.

3. A salvage vehicle that does not satisfy the requirements of subsection 2 is deemed a part or parts of an entire salvage vehicle.

Sec. 5. A person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or

2. Engages in any other acts prescribed by the Commissioner of Consumer Affairs by regulation as a deceptive trade practice.

~~{Sec. 2}~~ Sec. 6. "Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or representatives, authorizing repairs to motor vehicles under a policy of insurance.

~~{Sec. 3}~~ Sec. 7. 1. Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA

REGISTERED GARAGE

THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles ~~{that will ensure the proper repair of your vehicle.}~~ as a garage authorized to repair motor vehicles. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed \$50. (cite to section ~~{5}~~ 9 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section ~~{7}~~ of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section ~~{9}~~ 13 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section ~~{9}~~ 13 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or \$100, whichever is less. (cite to section ~~{6}~~ 10 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (NRS 487.035)

YOU have the right to a FAIR RESOLUTION of any dispute that develops concerning the repair of your vehicle. (cite to this section ~~17~~ of this act)

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

IN CLARK COUNTY: ~~(702) 486-4368~~ (telephone number for the Department of Motor Vehicles in Clark County)

ALL OTHER AREAS TOLL-FREE: ~~(1-877-368-7828)~~ (toll-free telephone number for the Department of Motor Vehicles)

2. The sign required pursuant to the provisions of subsection 1 must include a replica of the great seal of the State of Nevada. The seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."

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

~~{Sec. 4.}~~ *Sec. 8. If any garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, he shall comply with the provisions of sections ~~13 to 14,~~ 7 to 19, inclusive, of this act.*

~~{Sec. 5.}~~ *Sec. 9. 1. Except as otherwise provided in section ~~7~~ 11 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than \$50 must be furnished an estimate or statement signed by the person making the estimate or statement on behalf of the garageman, indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.*

2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:

(a) Diagnosis and disassembly; and

(b) Reassembly, if the person does not authorize the repair.

3. The provisions of this section do not require a garageman to reassemble a motor vehicle if he determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.

~~{Sec. 6.}~~ *Sec. 10. Except as otherwise provided in section ~~7~~ 11 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or \$100, whichever is less, the amount set forth in the estimate or statement required to be furnished pursuant to the provisions of section ~~5~~ 9 of this act, the garageman shall notify the person authorizing the repairs of the amount of those additional charges.*

~~{Sec. 7}~~ *Sec. 11. The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section ~~{5}~~ 9 of this act or the notification required by section ~~{6}~~ 10 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs ~~{7}~~ or at any time before the repairs are performed.*

~~{Sec. 8}~~ *Sec. 12. 1. A person authorizing repairs who has been notified of additional charges pursuant to section ~~{6}~~ 10 of this act shall:*

*(a) Authorize the performance of the repair at the additional expense; or
(b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.*

2. Until the election provided for in subsection 1 has been made, the garageman shall not undertake any repair which would involve such additional charges.

3. If the person elects to take possession of the motor vehicle but fails to take possession within a 24-hour period after such election, the garageman may charge for storage of the vehicle.

~~{Sec. 9}~~ *Sec. 13. 1. If the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to such person all parts and accessories replaced as a result of the work done.*

2. The provisions of subsection 1 do not apply to parts or accessories which must be returned to a manufacturer or distributor under a warranty arrangement or which are subject to exchange, but the customer on request is entitled to be shown such warranty parts for which a charge is made.

~~{Sec. 10}~~ *Sec. 14. The garageman shall retain copies of any estimate, statement or waiver required by sections ~~{6 to 9}~~ 10 to 13, inclusive, of this act as an ordinary business record of the garage, for a period of not less than 1 year after the date such estimate, statement or waiver is signed.*

~~{Sec. 11}~~ *Sec. 15. In every instance where charges are made for the repair of a motor vehicle, the garageman making the repairs shall comply with the provisions of NRS 487.035 as well as the provisions of sections ~~{6 to 9}~~ 10 to 13, inclusive, of this act. He is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such lien, nor shall he have the right to sue on any contract for repairs made by him, unless he has complied with the requirements of sections ~~{6 to 9}~~ 10 to 13, inclusive, of this act in addition to those of NRS 487.035.*

~~{Sec. 12}~~ *Sec. 16. 1. A person may file with the Director a complaint alleging that he has been aggrieved by a deceptive trade practice or any violation of sections 7 to 19, inclusive, of this act. Such a complaint must:*

(a) Be submitted in writing in the form prescribed by the Director; or

(b) Be reported to the Director via the toll-free telephone number established pursuant to NRS 598.990.

2. Upon receipt of a complaint submitted pursuant to subsection 1, the Director:

(a) If the complaint alleges that a garageman engaged in a deceptive trade practice, shall submit the complaint to the Commissioner of Consumer Affairs. The Commissioner:

(1) Shall investigate the merits of the complaint and may submit his findings to the Director; and

(2) May request that the Attorney General or a district attorney take action pursuant to subsection 3.

(b) If the complaint alleges that a garageman committed a violation of sections 7 to 19, inclusive, of this act:

(1) Shall investigate the merits of the complaint and may submit his findings to the Commissioner; and

(2) May request that the Attorney General or a district attorney take action pursuant to subsection 3.

3. The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, of the Commissioner or of any person allegedly aggrieved by ~~such violation to enjoin~~ any deceptive trade practice or violation of the provisions of sections ~~3 to 14,~~ 7 to 19, inclusive, of this act.

~~2. Any person who knowingly violates any provision of sections 7 to 19, inclusive, of this act is liable, in addition to any other penalty or remedy which may be provided by law, for a civil penalty of not more than \$500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney, to obtain an injunction, temporary restraining order or other appropriate relief.~~

~~Sec. 13.~~ Sec. 17. 1. There is hereby created a Revolving Account for the ~~Department of Motor Vehicles~~ Bureau of Consumer Protection created within the Office of the Attorney General pursuant to NRS 228.310 in the sum of \$7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections ~~3 to 14,~~ 7 to 19, inclusive, of this act.

2. The ~~Director~~ Consumer's Advocate appointed pursuant to NRS 228.320 shall deposit the money in the Revolving Account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The ~~Director~~ Consumer's Advocate or his designee may:

(a) Sign all checks drawn upon the Revolving Account; and

(b) Make withdrawals of cash from the Revolving Account.

4. *Payments made from the Revolving Account must be promptly reimbursed from the legislative appropriation, if any, to the ~~Director~~ Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections ~~3 to 14,~~ 7 to 19, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.*

5. *The ~~Director~~ Consumer's Advocate shall:*

- (a) *Approve any disbursement from the Revolving Account; and*
- (b) *Maintain records of any such disbursement.*

Sec. 18. 1. The Commissioner of Consumer Affairs or the Director may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 7 to 19, inclusive, of this act.

2. The Bureau of Consumer Protection created within the Office of the Attorney General pursuant to NRS 228.310 may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 7 to 19, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.

~~{Sec. 14.}~~ Sec. 19. 1. In addition to any other penalty, the ~~Department~~ Commissioner of Consumer Affairs may impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice. The ~~Department~~ Commissioner shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

~~2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:~~

- ~~(a) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or~~*
- ~~(b) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.~~*

~~3. The ~~Director~~ The Commissioner may negotiate the recovery of losses by a person aggrieved by a deceptive trade practice from the garageman who engaged in the practice in lieu of imposing an administrative fine, and may mediate any disputes between customers and garagemen.~~

~~{4.}~~ 3. All administrative fines collected by the ~~Department~~ Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

~~{5.}~~ 4. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The ~~Department~~ Commissioner may

not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 20. NRS 487.035 is hereby amended to read as follows:

487.035 1. If charges are made for the repair of a motor vehicle, the ~~person~~ **garageman or operator of the body shop** making the charges shall present to the person requesting the repairs or the person entitled to possession of the motor vehicle a statement of the charges containing the following information:

(a) The name and signature of the person authorizing or requesting the repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for each part;

(d) A statement of the charges made for labor; and

(e) A description of all other charges.

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in the State of Nevada, no lien for labor or materials provided under NRS 108.265 to 108.360, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, such notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

4. As used in this section, "motor vehicle" has the meaning ascribed to it in NRS 487.550.

Sec. 21. NRS 487.160 is hereby amended to read as follows:

487.160 1. The Department ~~[, after notice and hearing,]~~ may suspend, revoke or refuse to renew a license of an automobile wrecker upon determining that the automobile wrecker:

(a) Is not lawfully entitled thereto;

(b) Has made, or knowingly or negligently permitted, any illegal use of that license;

(c) Has failed to return a salvage title to the state agency when and as required of him by NRS 487.710 to 487.890, inclusive; or

(d) Has failed to surrender to the state agency certificates of title for vehicles before beginning to dismantle or wreck the vehicles.

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal, suspension or revocation, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. The Department may suspend, revoke or refuse to renew a license of an automobile wrecker, or may deny a license to an applicant therefor, for any reason determined by the Director to be in the best interest of the public, or if the licensee or applicant:

(a) Does not have or maintain an established place of business in this State.

(b) Made a material misstatement in any application.

(c) Willfully fails to comply with any applicable provision of this chapter.

(d) Fails to furnish and keep in force any bond required by NRS 487.050 to 487.200, inclusive.

(e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation of a vehicle, trailer or semitrailer.

(f) Fails to maintain any license or bond required by a political subdivision of this State.

(g) Has been convicted of a felony.

(h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 7.

(j) Knowingly submits or causes to be submitted any false, forged or otherwise fraudulent document to the Department to obtain a lien, title, salvage title or certificate of ownership, or any duplicate thereof, for a vehicle.

(k) Knowingly causes or allows a false, forged or otherwise fraudulent document to be maintained as a record of his business.

(l) Interferes with or refuses to allow any peace officer or agent of a state agency access to and, upon demand, the opportunity to examine any record held in conjunction with the operation of the wrecker.

(m) Displays evidence of unfitness for a license pursuant to section 3 of this act.

5. If an application for a license as an automobile wrecker is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

6. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of this chapter.

7. Upon the receipt of any report or complaint alleging that an applicant or licensee has engaged in financial misconduct or has failed to satisfy any financial obligation related to the business of dismantling, scrapping, processing or wrecking of vehicles, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for

initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.050 to 487.200, inclusive, and sections 2, 3 and 4 of this act or to determine the suitability of an applicant or a licensee for such licensure.

8. For the purposes of this section, failure to adhere to the directives of the state agency advising the licensee of his noncompliance with any provision of NRS 487.050 to 487.200, inclusive, and sections 2, 3 and 4 of this act or NRS 487.710 to 487.890, inclusive, or regulations of the state agency, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

Sec. 22. NRS 487.170 is hereby amended to read as follows:

487.170 Every licensed automobile wrecker, rebuilder or scrap processor shall maintain a record of all vehicles acquired and processed, junked, dismantled ~~for wrecked, which contains the name and~~, wrecked, sold as a part or parts or disposed of as scrap metal. The records must be open to inspection during business hours by any peace officer or investigator of a state agency. Every vehicle record must contain:

1. The name, address and original signature of the person from whom the vehicle was ~~purchased or acquired and the date thereof, the~~ acquired, until such time as the original signature is submitted to the Department, at which time the record must contain a duplicate of the signature;

2. The date the vehicle was acquired;

3. The manner in which the vehicle was acquired by the wrecker, rebuilder or scrap processor;

4. The registration number last assigned to the vehicle; and ~~and~~

5. A brief description of the vehicle, including, insofar as the data may exist with respect to a given vehicle, the make, type, serial number and motor number, or any other number of the vehicle. ~~The record must be open to inspection during business hours by any peace officer or investigator of the state agency.~~

Sec. 23. NRS 487.200 is hereby amended to read as follows:

487.200 Any person who violates any of the provisions of NRS 487.050 to 487.200, inclusive, and sections 2, 3 and 4 of this act is guilty of a misdemeanor.

Sec. 24. NRS 487.260 is hereby amended to read as follows:

487.260 1. If the vehicle is appraised at a value of more than \$500, the state agency or political subdivision shall dispose of it as provided in NRS 487.270.

2. If the vehicle is appraised as a junk vehicle, the Department may issue a junk certificate to the automobile wrecker or tow operator who removed the vehicle.

3. An automobile wrecker who possesses a junk certificate for a junk vehicle may dismantle, scrap, crush or otherwise destroy the vehicle.

4. A vehicle for which a junk certificate has been issued may be sold to an automobile wrecker by the person to whom the junk certificate was issued by the seller's endorsement on the certificate. An automobile wrecker who purchases a vehicle for which a junk certificate has been issued shall immediately affix the business name of the automobile wrecker as purchaser to the first available space provided on the reverse side of the certificate. For the purposes of this subsection, such an automobile wrecker is the owner of the junk vehicle.

5. If insufficient space exists on the reverse side of a junk certificate to transfer the vehicle pursuant to subsection 4, an automobile wrecker who purchases a junk vehicle for which a junk certificate has been previously issued shall, within 10 days after purchase, apply to the Department for a new junk certificate and surrender the original certificate.

~~5~~ 6. A person who sells, dismantles, scraps, crushes or otherwise destroys a junk vehicle shall maintain, for at least 2 years, a copy of the junk certificate and a record of the name and address of the person from whom the vehicle was acquired and the date thereof. He shall allow any peace officer or any investigator employed by a state agency to inspect the records during business hours.

~~6~~ 7. As used in this section, "junk vehicle" means a vehicle, including component parts, which:

- (a) Has been discarded or abandoned;
- (b) Has been ruined, wrecked, dismantled or rendered inoperative;
- (c) Is unfit for further use in accordance with the original purpose for which it was constructed;
- (d) Is not registered with the Department or has not been reclaimed by the registered owner or a person having a security interest in the vehicle within 15 days after notification pursuant to NRS 487.250; and
- (e) Has value principally as scrap which does not exceed \$200.

Sec. 25. NRS 487.490 is hereby amended to read as follows:

487.490 1. The Department may refuse to issue a license or ~~after notice and hearing,~~ may suspend, revoke or refuse to renew a license of an operator of a salvage pool upon determining that the operator:

- (a) Is not lawfully entitled to the license;
- (b) Has made, or knowingly or negligently permitted, any illegal use of that license;
- (c) Made a material misstatement in any application;
- (d) Willfully fails to comply with any provision of NRS 487.400 to 487.510, inclusive;
- (e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation regarding a vehicle;
- (f) Fails to maintain any license or bond required by a political subdivision of this State;
- (g) Has been convicted of a felony;

(h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter; ~~or~~

(i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 6 ~~14~~; *or*

(j) Displays evidence of unfitness for a license pursuant to section 3 of this act.

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal to grant or renew or the suspension or revocation of a license, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. If an application for a license as an operator of a salvage pool is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

5. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of NRS 487.400 to 487.510, inclusive.

6. Upon the receipt of any report or complaint that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a salvage pool, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.400 to 487.510, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

7. For the purposes of this section, the failure to adhere to the directives of the Department advising the licensee of his noncompliance with any provision of NRS 487.400 to 487.510, inclusive, or regulations of the Department, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

~~{Sec. 15.}~~ **Sec. 26.** NRS 487.530 is hereby amended to read as follows:

487.530 As used in NRS 487.530 to 487.570, inclusive, ***and sections ~~14~~ 5 to 19, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS ~~{487.535}~~ **487.540** to 487.550, inclusive, ***and ~~section 21~~ sections 5 and 6 of this act*** have the meanings ascribed to them in those sections.

~~{Sec. 16.}~~ **Sec. 27.** NRS 487.555 is hereby amended to read as follows:

487.555 The provisions of NRS 487.530 to 487.570, inclusive, *and sections ~~12 to 14~~ 5 to 19, inclusive, of this act* do not apply to a service station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.

Sec. 28. NRS 487.560 is hereby amended to read as follows:

487.560 1. On and after January 1, 1998, a garageman shall register with the Department for authorization to operate a garage.

2. An application for registration must be on a form provided by the Department. The application must include:

(a) The name of the applicant, including each name under which he intends to do business;

(b) The complete street address of each location from which the applicant will be conducting business, including a designation of the location that will be his principal place of business;

(c) A copy of the business license for each garage operated by the applicant if the county or city in which the applicant operates a garage requires such a license;

(d) The type of repair work offered at each garage operated by the applicant;

(e) The number of mechanics employed at each garage operated by the applicant; *and*

(f) ~~The statement required by NRS 487.563; and~~

~~(g)~~ Any other information required by the Department.

3. Except as otherwise provided in this subsection, for each garage operated by an applicant, the Department shall charge a fee of \$25 for the issuance or renewal of registration. If an applicant operates more than one garage, he may file one application if he clearly indicates on the application the location of each garage operated by the applicant and each person responsible for the management of each garage. The Department shall waive the fee for the issuance or renewal of registration for a person that is licensed as:

(a) An authorized inspection station, authorized maintenance station or authorized station pursuant to chapter 445B of NRS;

(b) A manufacturer, distributor, dealer or rebuilder pursuant to chapter 482 of NRS; or

(c) An automobile wrecker, salvage pool or body shop pursuant to chapter 487 of NRS.

4. All fees collected pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Regulation of Salvage Pools, Automobile Wreckers, Body Shops and Garages.

5. An applicant for registration or renewal of registration shall notify the Department of any material change in the information contained in his application for registration or renewal within 10 days after his knowledge of the change.

~~{Sec. 17.}~~ **Sec. 29.** NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 ~~{must include in the application a written statement to the Department that specifies whether he agrees to submit to binding arbitration any claims against him arising out of a contract for repairs made by him to a motor vehicle. If the person fails to submit the statement to the Department or specifies in the statement that he does not agree to arbitrate those claims, the person}~~ shall file with the Department a bond in the amount of \$5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of NRS 487.035, 487.530 to 487.570, inclusive, and ~~{597.480 to 597.590, inclusive.}~~ **sections ~~{2 to 14,}~~ 5 to 19, inclusive, of this act.**

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. **The bond must provide that any person injured by the action of the garageman may:**

(a) Apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make payment.

(b) Present to the Director an order of a court requiring the Director to pay to the person an amount of compensation from the bond. The Director shall inform the surety, and the surety shall then make payment.

4. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

~~{4. If a claim is arbitrated pursuant to the provisions of this section, the proceedings for arbitration must be conducted in accordance with the provisions of NRS 38.206 to 38.248, inclusive.~~

~~5. If a person:~~

~~(a) Submits the statement to the Department specifying that he agrees to arbitrate a claim pursuant to the provisions of subsection 1; and~~

~~(b) Fails to submit to binding arbitration any claim specified in that subsection;~~

~~the person asserting the claim may notify the Department of that fact. Upon receipt of the notice, the Department shall, after notice and hearing, revoke or refuse to renew the certificate of registration of the person who failed to submit the claim to arbitration.~~

~~6. 5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the garageman or released upon receipt of:~~

~~(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or~~

~~(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting that the Director release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.~~

~~6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage, the Department shall ~~after notice and hearing,~~ revoke or refuse to renew the certificate of registration of the person who failed to comply with the order ~~or satisfy the judgment.~~~~

7. The Department may reinstate or renew a certificate of registration that is ~~is~~

~~(a) Revoked pursuant to the provisions of subsection 5 if the person whose certificate of registration is revoked;~~

~~(1) Submits the claim to arbitration pursuant to the provisions of subsection 4 and notifies the Department of that fact; or~~

~~(2) Files a bond or makes a deposit with the Department pursuant to the provisions of this section.~~

~~(b) Revoked~~ **revoked** pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

Sec. 30. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or ~~after notice and hearing,~~ may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of sections 7 to 19, inclusive, of this act.

(d) Evidence of unfitness of the applicant or registrant pursuant to section 3 of this act.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.

3. As used in this section, “salvage vehicle” has the meaning ascribed to it in NRS 487.770.

Sec. 31. NRS 487.565 is hereby amended to read as follows:

487.565 1. If the Department receives an application for registration that contains the information required by NRS 487.560, it shall issue to the applicant a certificate of registration for each garage operated by the applicant. The certificate must contain the name of the applicant, the name under which his business will be conducted, the address of his business and the registration number for the garage.

2. A certificate of registration is valid for 1 year after the date of issuance. A garageman may renew his registration by submitting to the Department:

(a) An application for renewal on a form provided by the Department; and

(b) Except as otherwise provided in NRS 487.560, the fee for renewal set forth in that section.

~~{The application must include the statement required by NRS 487.563.}~~

~~{Sec. 18.}~~ **Sec. 32.** NRS 487.568 is hereby amended to read as follows:

487.568 A person who violates any provision of NRS 487.530 to 487.570, inclusive, ~~and sections 2 to 14,~~ 5 to 19, inclusive, of this act is guilty of a misdemeanor.

~~{Sec. 19.}~~ **Sec. 33.** NRS 487.570 is hereby amended to read as follows:

487.570 A garageman shall comply with the provisions of ~~{NRS 597.480 to 597.590, inclusive.}~~ sections 3 to 14, 7 to 19, inclusive, of this act.

~~{Sec. 20.}~~ **Sec. 34.** NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in

the amount of \$10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of NRS 487.035, **sections ~~3 to 14,~~ 7 to 19, inclusive, of this act and NRS 487.600 to 487.690, inclusive.** ~~[, and 597.480 to 597.590, inclusive.]~~ The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than \$1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of NRS 487.035, **sections ~~3 to 14,~~ 7 to 19, inclusive, of this act and NRS 487.600 to 487.690, inclusive,** ~~[, and 597.480 to 597.590, inclusive.]~~ may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the

deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

- (a) Files an additional bond pursuant to subsection 1;
- (b) Restores the deposit with the Department to the original amount required under this section; or
- (c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

- (a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or
- (b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

~~[Sec. 21.]~~ **Sec. 35.** NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or ~~[, after notice and hearing,]~~ may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

- (a) Failure of the applicant or licensee to have or maintain an established place of business in this State.
- (b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.
- (c) Any material misstatement in the application for the license.
- (d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, 487.610 to 487.690, inclusive, or ~~[597.480 to 597.590, inclusive.]~~ **sections ~~[3 to 14,]~~ 7 to 19, inclusive, of this act.**

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilt by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to section 3 of this act.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

~~{Sec. 22.}~~ **Sec. 36.** NRS 487.830 is hereby amended to read as follows:

487.830 1. Any person who transfers an interest in a motor vehicle in this State shall, before the transfer, disclose in writing to the transferee any information that the transferor knows or reasonably should know concerning whether the vehicle is a salvage vehicle ~~{ }~~, ***a rebuilt vehicle or a reconstructed vehicle, as that term is defined in NRS 482.100.***

2. If the transferor is subject to any of the provisions of NRS 482.423 to 482.4245, inclusive, the transferor shall:

(a) Make the disclosure required by subsection 1 before executing a contract of sale or a long-term lease;

(b) Provide a copy of the disclosure to the transferee; and

(c) Retain the written disclosure in his records for the period specified in NRS 482.3263.

3. A person who violates subsection 1 is guilty of obtaining property by false pretenses as provided in NRS 205.380.

~~{Sec. 23.}~~ **Sec. 37.** NRS 598.985 is hereby amended to read as follows:

598.985 1. The Division and the Department shall cooperate to enhance the protection of persons who authorize the repair of motor vehicles by a garage that is registered with the Department pursuant to the provisions of NRS 487.530 to 487.570, inclusive ~~{ }~~, ***and sections ~~{2 to 14.}~~ 5 to 19, inclusive, of this act.***

2. The ~~{Commissioner of Consumer Affairs may}~~ ***Department shall*** provide to the ~~{Department}~~ ***Commissioner of Consumer Affairs*** a copy of any complaint filed with the ~~{Division}~~ ***Department*** that alleges a deceptive

trade practice pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, by a garage or garageman registered pursuant to the provisions of NRS 487.530 to 487.570, inclusive ~~[]~~, **and sections ~~[2 to 14,] 5 to 19, inclusive, of this act.~~ ~~[If the Commissioner provides the Department with a copy of a complaint, the Department is]~~ The Department and the Commissioner are subject to the provisions of NRS 598.098 with respect to the complaint.**

3. The ~~[Department]~~ Division may provide assistance to the ~~[Division]~~ Department in carrying out the provisions of NRS 598.990.

~~[Sec. 24.]~~ **Sec. 38.** NRS 598.990 is hereby amended to read as follows:

598.990 **1.** The ~~[Division]~~ Department shall ~~not~~

~~1. Establish]~~ establish and maintain a toll-free telephone number for persons to report to the ~~[Division]~~ Department information concerning alleged violations of NRS 487.035, 487.530 to 487.570, inclusive, ~~[597.480 to 597.590, inclusive,]~~ **and sections ~~[2 to 14,] 5 to 19, inclusive, of this act,~~** and 598.0903 to 598.0999, inclusive.

2. ~~[Develop]~~ The Division shall develop a program to provide information to the public concerning:

(a) The duties imposed on a garageman by the provisions of NRS 487.035, 487.530 to 487.570, inclusive, and ~~[597.480 to 597.590, inclusive;]~~ **sections ~~[2 to 14,] 5 to 19, inclusive, of this act;~~**

(b) The rights and protections established for a person who uses the services of a garage;

(c) The repair of motor vehicles; and

(d) Deceptive trade practices relating to the repair of motor vehicles by a garage.

~~[Sec. 25.]~~ **Sec. 39.** NRS 487.535, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.540, 597.550, 597.560, 597.570, 597.580 and 597.590 are hereby repealed.

Sec. 40. A garageman shall display the sign required pursuant to section 7 of this act on or before:

1. October 1, 2007; or

2. The date that he submits to the Department of Motor Vehicles his application for the renewal of a certificate of registration pursuant to NRS 487.565, as amended by section 31 of this act,

↪ whichever is later.

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.

597.480 Definitions.

597.490 Display of sign required; contents of sign; penalty.

597.500 Duties of garageman on acceptance of vehicle for repair.

597.510 Estimate of costs required for certain repairs.

597.520 Notice of additional charges over estimate required in certain cases.

597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

597.540 Duties of person authorizing repairs upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by garageman.

597.570 Compliance with NRS 487.035 also required; enforcement of liens and contracts.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 396.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 388.

“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 ~~to~~ **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 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; 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 ~~1-6~~ **1.3** and ~~1-1~~ **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 property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

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~~ **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 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, ~~[without charge and without prior censorship, devote and include]~~ **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.

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:

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. Disclose the matter to the executive board; and

2. Abstain from voting on any such matter.

~~{Section 1.}~~ **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; ~~for~~

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992 ~~for~~ ;
~~for~~

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~for~~, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 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.

Sec. 2. ~~NRS 116.212 is hereby amended to read as follows:~~

~~116.212 1. If the declaration provides that any of the powers described in NRS 116.3102 are to be exercised by or may be delegated to a profit or nonprofit corporation that exercises those or other powers on behalf of one or more common interest communities or for the benefit of the units' owners of one or more common interest communities, or on behalf of a common interest community and a time share plan created pursuant to chapter 119A of NRS, all provisions of this chapter applicable to unit owners' associations apply to any such corporation, except as modified by this section.~~

~~2. Unless it is acting in the capacity of an association described in NRS 116.3101, a master association may exercise the powers set forth in paragraph (b) of subsection 1 of NRS 116.3102 only to the extent expressly permitted in:~~

~~(a) The declarations of common interest communities which are part of the master association or expressly described in the delegations of power from those common interest communities to the master association; or~~

~~(b) The declaration of the common interest community which is a part of the master association and the time share instrument creating the time share plan governed by the master association.~~

~~3. If the declaration of any common interest community provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.~~

~~4. The rights and responsibilities of units' owners with respect to the unit owners' association set forth in NRS 116.3103, 116.31032, 116.31034, 116.31036, 116.3108, 116.31085, 116.3109, 116.311 [116.31105] and 116.3112 apply in the conduct of the affairs of a master association only to persons who elect the board of a master association, whether or not those persons are otherwise units' owners within the meaning of this chapter.~~

~~5. Even if a master association is also an association described in NRS 116.3101, the certificate of incorporation or other instrument creating the master association and the declaration of each common interest community, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of the declarant's control in any of the following ways:~~

~~(a) All units' owners of all common interest communities subject to the master association may elect all members of the master association's executive board.~~

~~(b) All members of the executive boards of all common interest communities subject to the master association may elect all members of the master association's executive board.~~

~~(c) All units' owners of each common interest community subject to the master association may elect specified members of the master association's executive board.~~

~~(d) All members of the executive board of each common interest community subject to the master association may elect specified members of the master association's executive board.~~ (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 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 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.

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~~ and:

(a) The voting rights of the [units'] owners of time shares will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is

held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to

the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy

of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 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 ~~or~~ another unit's owner who resides in the common-interest community ~~or~~ or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

3. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.

4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.

5. ~~[(A)]~~ **Except as otherwise provided in this subsection, a** vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association. ~~[unless]~~ **A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.**

6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.

8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

~~10. The executive board shall not and the governing documents must not provide for or authorize a representative form of government or the use of delegates or representatives to exercise the voting rights of the units' owners.~~

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.

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.

~~Sec. 7. NRS 116.3116 is hereby amended to read as follows:~~

~~116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.~~

~~2. A lien under this section is prior to all other liens and encumbrances on a unit except:~~

~~(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;~~

~~(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and~~

~~(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.~~

~~→ The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.~~

~~3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.~~

~~4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.~~

~~5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.~~

~~6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.~~

~~7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.~~

~~8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.~~

~~9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:~~

~~(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~

~~(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:~~

~~(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or~~

~~(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~

~~10. The association must obtain approval from the Commission before attempting to foreclose its lien pursuant to the provisions of NRS 116.31162 to 116.31168, inclusive.] (Deleted by amendment.)~~

Sec. 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.

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.

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 ~~for~~ and without charge ~~and without any prior censorship, devote and include~~ provide equal space ~~and equivalent exposure to any~~ 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 subsection~~ section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting ~~or have voted~~, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of ~~proposed legislation or administrative~~ 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. 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.

~~((e))~~ (d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~((d))~~ (e) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without

limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~{(e)}~~ (f) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

Sec. 11. ~~[NRS 116.31105 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 12. **1. This ~~act~~ 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 ~~July~~ October 1, 2007.

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~~TEXT OF REPEALED SECTION~~

~~116.31105—Voting by delegates or representatives; procedure for electing delegates or representatives.~~

~~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.~~

~~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.~~

~~3. 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. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.~~

~~5. 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.]~~

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 416.

Bill read second time.

The following amendment was proposed by the Select Committee on Corrections, Parole, and Probation:

Amendment No. 380.

AN ACT relating to correctional institutions; requiring the Department of Corrections to conduct peer review of certain employees; ~~[providing the Board of State Prison Commissioners with the sole authority to prescribe regulations for the Department.]~~ requiring the Legislative Auditor to perform biennial performance audits of the Department; creating the ~~[Committee on Prison Oversight.]~~ **Policy Advisory Commission on Corrections**; making certain changes concerning ~~[mandatory]~~ the parole of certain prisoners; providing that meetings of the State Board of Parole Commissioners are subject to the Open Meeting Law; revising the additional penalty that must be imposed for the commission of certain crimes under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~¶ Existing law authorizes the Director of the Department of Corrections to establish certain regulations concerning the Department. (NRS 209.131, 209.243, 209.246, 209.361, 209.365, 209.367, 209.385, 209.392, 209.419, 209.423, 209.481, 209.4886, 209.4888, 209.501) Section 8 of this bill provides that the Board of State Prison Commissioners has the sole authority to establish regulations for the Department. Sections 9-22 of this bill amend existing law to repeal the authority of the Director to establish regulations.]~~

Section 2 of this bill requires the Department of **Corrections** to carry out a process for peer review of employees of the Department who are in the

unclassified service of the State and requires the Board of State Prison Commissioners to prescribe the requirements for the process for peer review. Section 3 of this bill requires the Legislative Auditor to conduct biennial performance audits of the Department and to report the findings of such performance audits to the Audit Subcommittee of the Legislative Commission. Sections 4 ~~4-6~~ and 5 of this bill create the ~~Committee on Prison Oversight~~ **Policy Advisory Commission on Corrections** to evaluate prisons in this State and make certain reports to the Governor and the Legislative Commission concerning the status of prisons. **Section 37 of this bill provides that the provisions creating the Commission will expire by limitation on June 30, 2011.**

~~Section 7 of this bill requires that if the duties of an officer, employee or independent contractor of the Department require contact with a prisoner, the officer, employee or independent contractor must be of the same gender as the prisoner.~~

Section 23 of this bill revises certain provisions concerning determinations by the State Board of Parole Commissioners concerning the granting or revoking of parole. (NRS 213.10885) Section 24 of this bill ~~requires the Board to release on parole certain prisoners once the prisoners have served the minimum sentence imposed by a court in certain circumstances. Section 24 also requires the Board to release certain prisoners on parole if the Department determines that the population of the institutions in this State exceeds 97 percent of total capacity.~~ **requires that certain prisoners must be released on parole 18 months before the end of their maximum term rather than 12 months as is provided in existing law. Section 24 also authorizes the Division of Parole and Probation of the Department of Public Safety to waive certain requirements concerning the close supervision of a prisoner who is released on parole for a category D or category E felony. (NRS 213.1215)**

Sections 25 and 35 of this bill provide that meetings of the State Board of Parole Commissioners are subject to the Open Meeting Law. (NRS 213.130, 241.030) **Section 25 also requires the Board to provide notice of a meeting to consider a prisoner for parole to be given to the prisoner and the victim. Section 25 further requires the Board to provide certain information to prisoners and to make a final decision concerning parole within 10 working days after a meeting to consider parole.**

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.161-193.1685) Sections 26-34 of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 10 years ~~10~~, **except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime.**

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

Section 1. Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~7,~~ 6, inclusive, of this act.

Sec. 2. 1. *The Department shall carry out a process for peer review of the performance of employees of the Department who are in the unclassified service of the State. The Board shall prescribe the requirements for the process for peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.*

2. *On or before January 1 of each even-numbered year, the Board shall review comprehensively the process for peer review adopted by the Board. The review must include a determination of whether the process is effective in identifying problems concerning the performance of employees of the Department who are in the unclassified service. If the process is found to be ineffective, the Board shall adopt a revised process for peer review as soon as practicable.*

3. *The Board shall report to each regular session of the Legislature:*

(a) *The findings of the Board concerning the effectiveness of the process for peer review;*

(b) *The results and conclusions from the Board's review pursuant to subsection 2; and*

(c) *Any changes in the Department's standards, policies, procedures or programs that have been or will be made as a result of the review.*

Sec. 3. 1. *On or before January 1 of each even-numbered year, the Legislative Auditor shall conduct a performance audit of the Department. The performance audit must include, without limitation, issues concerning:*

(a) *Financial management of the Department;*

(b) *Facilities management of the Department; ~~and~~*

(c) *Personnel management of the Department ~~and~~;*

(d) *Monitoring of the Offender's Store Fund created pursuant to NRS 209.221; and*

(e) *The availability to prisoners of educational programs, medical care, employment programs and credits for good behavior.*

2. *The Legislative Auditor shall prepare a final written report for each performance audit conducted pursuant to subsection 1 and present the report to the Audit Subcommittee of the Legislative Commission on or before January 1 of each odd-numbered year.*

3. *Upon the request of the Legislative Auditor or his authorized representative, the officers and employees of the Department shall make available to the Legislative Auditor any of their books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise and irrespective of their form or location, which the Legislative Auditor deems necessary to conduct the audits required by this section.*

Sec. 4. 1. ~~The [Committee on Prison Oversight]~~ Policy Advisory Commission on Corrections is hereby created.

2. ~~The [Committee on Prison Oversight]~~ Policy Advisory Commission on Corrections consists of ~~[16]~~ 13 members:

(a) ~~[Four]~~ Three members appointed by the Majority Leader of the Senate, ~~[two]~~ one of whom must be ~~[members]~~ a member of the minority political party.

(b) ~~[Four]~~ Three members appointed by the Speaker of the Assembly, ~~[two]~~ one of whom must be ~~[members]~~ a member of the minority political party.

(c) ~~[Eight members, at least one of whom must have medical training, appointed by the Legislative Commission as follows:~~

~~(1) Two persons whose names appear on the list of registered voters of the City of Reno or Carson City.~~

~~(2) Two persons whose names appear on the list of registered voters of the City of Las Vegas.~~

~~(3) One person whose name appears on the list of registered voters of the City of Lovelock.~~

~~(4) One person whose name appears on the list of registered voters of the City of Ely.~~

~~(5) Two persons whose names appear on the list of registered voters of any unincorporated town of this State.]~~ Seven members who are representatives of the general public, appointed by the Legislative Commission from among written nominations submitted by the general public of persons who have experience, training or a demonstrated interest in issues relating to correctional institutions, including, without limitation, health care, mental health, substance abuse, social work and programs for reentry into the community. To the extent practicable, the members appointed pursuant to this paragraph must be representative of the various geographic areas of this State.

3. ~~The members of the [Committee on Prison Oversight]~~ Policy Advisory Commission on Corrections shall select a Chairman from among their membership.

4. Each member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments.

5. A vacancy occurring in the membership of the ~~[Committee on Prison Oversight]~~ Policy Advisory Commission on Corrections must be filled in the same manner as the original appointments.

6. A majority of the ~~[Committee on Prison Oversight]~~ Policy Advisory Commission on Corrections constitutes a quorum, and a majority of those members present must concur in any decision.

7. Each member of the ~~[Committee on Prison Oversight]~~ Policy Advisory Commission on Corrections serves without compensation. Each nonlegislative member of the ~~[Committee]~~ Commission is entitled to receive

the per diem allowance and travel expenses provided for state officers and employees generally. Each Legislator who is a member of the ~~{Committee}~~ Commission is entitled to receive the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207.

8. Each member of the ~~{Committee on Prison Oversight}~~ Policy Advisory Commission on Corrections who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the ~~{Committee}~~ Commission and perform any work necessary to accomplish the tasks assigned to the ~~{Committee}~~ Commission in the most timely manner practicable. A state agency shall not require an officer or employee who is a member of the ~~{Committee}~~ Commission to make up the time he is absent from work to fulfill his obligations as a member, nor shall it require the member to take annual vacation or compensatory time for the absence. Such a member shall serve on the ~~{Committee}~~ Commission without additional compensation, except that while he is engaged in the business of the ~~{Committee}~~ Commission, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the state agency which employs him.

Sec. 5. 1. The ~~{Committee on Prison Oversight}~~ Policy Advisory Commission on Corrections shall:

(a) Be informed on issues and developments relating to correctional institutions;

(b) Submit a semiannual report to the Governor and the Legislative Commission on or before July 1 and December 1 of each year on the status of correctional institutions in this State;

(c) Report to the Governor and the Legislative Commission on any other matter relating to correctional institutions that it deems appropriate; and

(d) Meet at least quarterly and at the call of the Chairman to review the operation of correctional institutions in this State.

2. Members of the ~~{Committee on Prison Oversight}~~ Policy Advisory Commission on Corrections may enter any correctional institution in this State and examine any prisoner at any time without prior authorization of the Director or the Department.

3. The ~~{Committee on Prison Oversight}~~ Policy Advisory Commission on Corrections may receive testimony from any source, including, without limitation, prisoners and members of their families.

4. Upon request, the Director and the Department shall provide to the ~~{Committee on Prison Oversight}~~ Policy Advisory Commission on Corrections any information the ~~{Committee}~~ Commission determines is relevant to the performance of the duties of the ~~{Committee}~~ Commission.

Sec. 6. ~~{All}~~ Except as otherwise prohibited by federal or state law, all books and papers kept by, prisons operated by, employees employed by and prisoners held in the custody of the Department shall at all times, on all

legal days, be open to and available for the inspection of the members of the Legislature.

Sec. 7. ~~If the duties of an officer, employee or independent contractor of the Department require any direct contact of that officer, employee or independent contractor with:~~

~~1. A female offender confined to a prison, institution or facility, the officer, employee or independent contractor must be a female.~~

~~2. A male offender confined to a prison, institution or facility, the officer, employee or independent contractor must be a male.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 209.111 is hereby amended to read as follows:~~

~~209.111 The Board has full control of all grounds, buildings, labor [,] and property of the Department, and shall:~~

~~1. Purchase, or cause to be purchased, all commissary supplies, materials and tools necessary for any lawful purpose carried on at any institution or facility of the Department.~~

~~2. Regulate the number of officers and employees of the Department.~~

~~3. [Prescribe] Have the sole authority to prescribe regulations for carrying on the business of the Board and the Department.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 209.131 is hereby amended to read as follows:~~

~~209.131 The Director shall:~~

~~1. Administer the Department under the direction of the Board.~~

~~2. Supervise the administration of all institutions and facilities of the Department.~~

~~3. Receive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison.~~

~~4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his jurisdiction.~~

~~5. Ensure that any person employed by the Department whose primary responsibilities are:~~

~~(a) The supervision, custody, security, discipline, safety and transportation of an offender;~~

~~(b) The security and safety of the staff; and~~

~~(c) The security and safety of an institution or facility of the Department;~~

~~is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220~~

~~6. [Establish regulations with the approval of the Board and enforce] Enforce all laws governing the administration of the Department and the custody, care and training of offenders.~~

~~7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department.~~

~~8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.~~

~~9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 209.243 is hereby amended to read as follows:~~

~~209.243 1. A prisoner or former prisoner may file an administrative claim with the Department to recover compensation for the loss of his personal property, property damage, personal injuries or any other claim arising out of a tort alleged to have occurred during his incarceration as a result of an act or omission of the Department or any of its agents, former officers, employees or contractors. The claim must be filed within 6 months after the date of the alleged loss, damage or injury.~~

~~2. The Department shall evaluate each claim filed pursuant to subsection 1 and determine the amount due, if any. If the amount due is \$500 or less, the Department, within the limits of legislative appropriations, shall approve the claim for payment and submit it to be paid as other claims against the State are paid. The Department shall submit all claims in which the amount due exceeds \$500, with any recommendations it deems appropriate, to the State Board of Examiners. The State Board of Examiners, in acting upon the claim, shall consider any recommendations of the Department.~~

~~3. The [Department] Board shall adopt regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 209.246 is hereby amended to read as follows:~~

~~209.246 The [Director shall, with the approval of the Board,] Board shall establish by regulation criteria for a reasonable deduction from money credited to the account of an offender to:~~

~~1. Repay the cost of:~~

~~(a) State property willfully damaged, destroyed or lost by the offender during his incarceration.~~

~~(b) Medical examination, diagnosis or treatment for injuries:~~

~~(1) Inflicted by the offender upon himself or other offenders; or~~

~~(2) Which occur during voluntary recreational activities.~~

~~(c) Searching for and apprehending the offender when he escapes or attempts to escape.~~

~~(d) Quelling any riot or other disturbance in which the offender is unlawfully involved.~~

~~(e) Providing a funeral for an offender.~~

~~(f) Providing an offender with clothing, transportation and money upon his release from prison pursuant to NRS 209.511.~~

~~(g) Transportation of an offender pursuant to a court order in cases other than a criminal prosecution, a proceeding for postconviction relief involving the offender or a proceeding in which the offender has challenged the conditions of his confinement.~~

~~(h) Monetary sanctions imposed under the code of penal discipline adopted by the Department.~~

~~2. Defray, as determined by the Director, a portion of the costs paid by the Department for medical care for the offender, including, but not limited to:~~

~~(a) Except as otherwise provided in paragraph (b) of subsection 1, expenses for medical or dental care, prosthetic devices and pharmaceutical items; and~~

~~(b) Expenses for prescribed medicine and supplies.~~

~~3. Repay the costs incurred by the Department on behalf of the offender for:~~

~~(a) Postage for personal items and items related to litigation;~~

~~(b) Photocopying of personal documents and legal documents, for which the offender must be charged a reasonable fee not to exceed the actual costs incurred by the Department;~~

~~(c) Legal supplies;~~

~~(d) Telephone calls charged to the Department;~~

~~(e) Charges relating to checks returned for insufficient funds and checks for which an order to stop payment has been made;~~

~~(f) Items related to the offender's work, including, but not limited to, clothing, shoes, boots, tools, a driver's license or identification card issued by the Department of Motor Vehicles, a work card issued by a law enforcement agency and a health card; and~~

~~(g) The replacement of an identification card or prepaid ticket for bus transportation issued to the offender by the Department.~~

~~4. Repay any cost to the State of Nevada or any agency or political subdivision thereof that is incurred in defending the State against an action filed by an offender in federal court alleging a violation of his civil rights which is determined by the court to be frivolous.~~

~~All money collected pursuant to this section must be deposited in the appropriate account in the State General Fund for reimbursement of the related expenditure.] (Deleted by amendment.)~~

~~Sec. 12. [NRS 209.361 is hereby amended to read as follows:~~

~~209.361 The [Director] Board shall:~~

~~1. Adopt [with the approval of the board] such regulations as are necessary to:~~

~~(a) Maintain proper custody of an offender in accordance with his current classification;~~

~~(b) Prevent escapes and maintain good order and discipline.~~

~~2. Establish procedures by regulation for disposing of cases involving violations of law in institutions or facilities of the Department.~~

~~3. Establish sanctions appropriate to the type and severity of such violations.] (Deleted by amendment.)~~

~~Sec. 13. [NRS 209.365 is hereby amended to read as follows:~~

~~209.365 1. The [Director shall adopt, with the approval of the Board,] Board shall adopt regulations establishing and governing a program, to be carried out within each facility and institution, to prevent an offender from~~

~~possessing or receiving a publication which is detrimental to his rehabilitation or which has the potential to disrupt security or promote violence or disorder in the facility or institution because the subject matter of the publication:~~

- ~~(a) Is sexually explicit;~~
- ~~(b) Is graphically violent; or~~
- ~~(c) Encourages or glamorizes:~~
 - ~~(1) Crime;~~
 - ~~(2) The activities of a criminal gang; or~~
 - ~~(3) Violence against law enforcement, women, children or members of a particular religion, ethnic group or race.~~

~~2. The regulations must provide that if an offender is prohibited from possessing or receiving a publication pursuant to this section, the offender possessing or receiving the publication must be provided with notice of the determination and an opportunity to appeal the determination. An appeal may be summarily denied if the appeal involves a publication that is similar to a publication that previously has been prohibited.~~

~~3. The establishment of the program required pursuant to this section does not affect:~~

- ~~(a) The authority of the Department to review materials that are possessed or received by an offender, including, but not limited to, publications, for any other lawful purpose or reason; or~~
- ~~(b) The procedures used by the Department to conduct such reviews.~~

~~4. The Department and its officers, employees and independent contractors are immune from liability for damages arising from an act or omission that allows an offender to possess or receive a publication that is prohibited pursuant to this section.~~

~~5. As used in this section:~~

- ~~(a) "Criminal gang" has the meaning ascribed to it in NRS 213.1263;~~
- ~~(b) "Publication" means a book, magazine, newsletter, bulletin, pamphlet or other similar item as determined by the Director.] (Deleted by amendment.)~~

~~Sec. 14. [NRS 209.367 is hereby amended to read as follows:~~

~~209.367 1. The Director shall establish a program, to be carried out within each facility and institution, that provides for periodic testing of offenders for use of alcohol and controlled substances. The program must provide that the selection of offenders to be tested for use of alcohol and controlled substances must be made on a random basis.~~

~~2. The [Director shall adopt, with the approval of the Board,] *Board shall adopt* regulations governing the operation of the program. The regulations must set forth the procedure for testing, including, but not limited to:~~

- ~~(a) The types of tests to be used;~~
- ~~(b) The manner in which a sample for a test is to be obtained;~~
- ~~(c) The persons who are authorized to obtain a sample for a test; and~~

~~(d) The method for preserving the chain of custody of a sample obtained for a test.~~

~~3. The Department shall inform the offenders in each facility and institution of the requirement to submit to a test and the sanctions for refusing or failing to submit to a test and for using alcohol or a controlled substance. The Department may provide this information through a general notice posted or distributed in each facility and institution.~~

~~4. The Department may sanction, pursuant to subsection 5, an offender:~~

~~(a) Who refuses or fails to submit to a test;~~

~~(b) Whose test detects alcohol or a controlled substance;~~

~~(c) Who manufactures, possesses, uses, sells, supplies, provides, distributes, conceals or stores alcohol or a controlled substance; or~~

~~(d) Who attempts to manufacture, possess, use, sell, supply, provide, distribute, conceal or store alcohol or a controlled substance.~~

~~5. In addition to any other sanction or penalty that may be imposed pursuant to law or regulation, an offender who violates subsection 4 may be sanctioned by:~~

~~(a) Forfeiture of all deductions of time earned by the offender before commission of the violation or forfeiture of such part of those deductions as the Director considers just, pursuant to NRS 209.451; and~~

~~(b) Denial of the privilege to have visitors for a specified period, as determined by the Director.~~

~~6. If alcohol or a controlled substance is found in a facility or institution, the Director may order that for a specified period:~~

~~(a) The offenders housed in the general area where the alcohol or controlled substance is found; or~~

~~(b) All offenders in the facility or institution;~~

~~→ be confined to their cells or housing units or be denied the privilege to have visitors, or both.~~

~~7. The establishment of the program to test offenders for use of alcohol and controlled substances pursuant to this section does not affect:~~

~~(a) The authority of the Department to test an offender for use of alcohol or a controlled substance for any other lawful purpose or reason; or~~

~~(b) The procedures used by the Department to conduct such tests.]~~

~~(Deleted by amendment.)~~

Sec. 15. ~~[NRS 209.385 is hereby amended to read as follows:~~

~~209.385 1. Each offender committed to the custody of the department for imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender:~~

~~(a) The appropriate approved tests must be administered; and~~

~~(b) The offender must receive counseling regarding the virus.~~

~~2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.~~

~~3. If the results of a supplemental test are positive, the name of the offender must be disclosed to:~~

~~(a) The Director;~~

~~(b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;~~

~~(c) The manager or warden of the facility or institution at which the offender is confined; and~~

~~(d) Each other employee of the Department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.~~

~~4. The offender must be segregated from every other offender whose test results are negative if:~~

~~(a) The results of a supplemental test are positive; and~~

~~(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.~~

~~5. The Director, with the approval of the Board [:~~

~~(a) Shall], shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.~~

~~[(b) May]~~

~~6. The Board may adopt such regulations as are necessary to carry out the provisions of this section.~~

~~[6.] 7. As used in this section:~~

~~(a) "Incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus.~~

~~(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.] (Deleted by amendment.)~~

Sec. 16. [NRS 209.392 is hereby amended to read as follows:

~~209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the [Director] Board pursuant to subsection 3 and who has:~~

~~(a) Established a position of employment in the community;~~

~~(b) Enrolled in a program for education or rehabilitation; or~~

~~(e) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime;~~

~~→ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.~~

~~2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.~~

~~3. The [Director.] Board, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the [Director.] Board must provide that an offender who:~~

~~(a) Is not eligible for parole or release from prison within a reasonable period;~~

~~(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;~~

~~(c) Has not performed the duties assigned to him in a faithful and orderly manner;~~

~~(d) Has ever been convicted of:~~

~~(1) Any crime involving the use or threatened use of force or violence against the victim; or~~

~~(2) A sexual offense;~~

~~(e) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955;~~

~~(f) Has escaped or attempted to escape from any jail or correctional institution for adults; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director;~~

~~→ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.~~

~~4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:~~

~~(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.~~

~~(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.~~

~~5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:~~

~~(a) A continuation of his imprisonment and not a release on parole; and~~

~~(b) For the purposes of NRS 209.341, an assignment to a facility of the Department;~~

~~except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.~~

~~6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.] (Deleted by amendment.)~~

~~Sec. 17. [NRS 209.419 is hereby amended to read as follows:~~

~~209.419 1. Communications made by an offender on any telephone in an institution or facility to any person outside the institution or facility may be intercepted if:~~

~~(a) The interception is made by an authorized employee of the Department; and~~

~~(b) Signs are posted near all telephones in the institution or facility indicating that communications may be intercepted.~~

~~2. The Director shall provide notice or cause notice to be provided to both parties to a communication which is being intercepted pursuant to subsection 1, indicating that the communication is being intercepted. For the purposes of this section, a periodic sound which is heard by both parties during the communication shall be deemed notice to both parties that the communication is being intercepted.~~

~~3. The [Director] Board shall adopt regulations providing for an alternate method of communication for those communications by offenders which are confidential.~~

~~4. A communication made by an offender is confidential if it is made to:~~

- ~~(a) A federal or state officer;~~
- ~~(b) A local governmental officer who is at some time responsible for the custody of the offender;~~
- ~~(c) An officer of any court;~~
- ~~(d) An attorney who has been admitted to practice law in any state or is employed by a recognized agency providing legal assistance;~~
- ~~(e) A reporter or editorial employee of any organization that reports general news including, but not limited to, any wire service or news service, newspaper, periodical, press association or radio or television station;~~
- ~~(f) The Director;~~
- ~~(g) Any other employee of the Department whom the Director may [, by regulation,] designate.~~

~~5. Reliance in good faith on a request or order from the Director or his authorized representative constitutes a complete defense to any action brought against any public utility intercepting or assisting in the interception of communications made by offenders pursuant to subsection 1.] (Deleted by amendment.)~~

~~Sec. 18. [NRS 209.423 is hereby amended to read as follows:
209.423 Wardens and managers may authorize visits and correspondence between offenders and appropriate friends, relatives, and others under regulations adopted by the [Director and approved by the] Board.] (Deleted by amendment.)~~

~~Sec. 19. [NRS 209.481 is hereby amended to read as follows:
209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:
(a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;
(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;
(c) Has not performed the duties assigned to him in a faithful and orderly manner;
(d) Has been convicted of a sexual offense;
(e) Has committed an act of serious violence during the previous year; or
(f) Has attempted to escape or has escaped from an institution of the Department.~~

~~2. The [Director] Board shall, by regulation, establish procedures for classifying and selecting qualified prisoners.] (Deleted by amendment.)~~

~~Sec. 20. [NRS 209.4886 is hereby amended to read as follows:
209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:~~

- ~~(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;~~

~~(b) The offender has demonstrated a willingness to:~~

~~(1) Engage in employment or participate in vocational rehabilitation or job skills training; and~~

~~(2) Meet any existing obligation for restitution to any victim of his crime; and~~

~~(c) The offender is within 2 years of his probable release from prison, as determined by the Director.~~

~~2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.~~

~~3. The [Director] Board shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the [Director must be approved by the] Board [and] must provide that an offender who:~~

~~(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;~~

~~(b) Has not performed the duties assigned to him in a faithful and orderly manner;~~

~~(c) Has, within the immediately preceding 5 years, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;~~

~~(d) Has ever been convicted of a sexual offense;~~

~~(e) Has escaped or attempted to escape from any jail or correctional institution for adults; or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director;~~

~~is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.~~

~~4. The [Director] Board shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.~~

~~5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.~~

~~6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director~~

~~may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.~~

~~7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:~~

~~(a) A continuation of his imprisonment and not a release on parole; and~~

~~(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,~~

~~except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.~~

~~8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees. (Deleted by amendment.)~~

Sec. 21. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The ~~Director~~ ~~Board~~ shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~[5 years.]~~ year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~[that is punishable as a felony;]~~

(e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~[or]~~

~~[(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.]~~

↪ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director ~~[Board]~~ shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or

establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 22. ~~[NRS 209.501 is hereby amended to read as follows:~~

~~209.501 1. The Director may grant temporary furloughs consistent with classification evaluations and requirements:~~

~~(a) To permit offenders to:~~

~~(1) Be interviewed by prospective employers;~~

~~(2) Respond to family emergencies; or~~

~~(3) Participate in other approved activities.~~

~~(b) For such other purposes as may be deemed appropriate by the Director with the approval of the Board.~~

~~2. Furloughs:~~

~~(a) Are limited to the confines of the State.~~

~~(b) Must not be granted to offenders:~~

~~(1) Sentenced to life imprisonment without the possibility of parole.~~

~~(2) Imprisoned for violations of chapter 201 of NRS who have not been certified by the designated board as eligible for parole.~~

~~(c) Must not be granted to an offender who is imprisoned for committing a battery which constitutes domestic violence pursuant to NRS 33.018, unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.~~

~~3. The Director shall notify appropriate law enforcement authorities in the affected county or city to anticipate the arrival of the offender within their jurisdiction and inform them of the date and time of the offender's arrival, the reason the furlough was granted, the time when the furlough expires and any other pertinent information which the Director deems appropriate.~~

~~4. The [Director with the approval of the] Board shall adopt regulations for administering the provisions of this section and governing the conduct of offenders granted a furlough. (Deleted by amendment.)~~

Sec. 23. NRS 213.10885 is hereby amended to read as follows:

213.10885 1. The Board shall adopt by regulation specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

(a) Who committed a capital offense.

(b) Who was sentenced to serve a term of imprisonment for life.

(c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.

(d) Who was convicted as a habitual criminal.

(e) Who is a repeat offender.

(f) Who was convicted of any other type of offense.

↪ The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

- (a) The severity of the crime committed;
- (b) ***Whether the crime committed was part of the same act or transaction as another crime for which the person was convicted;***
- (c) The criminal history of the person;
- ~~{(e)}~~ (d) Any disciplinary action taken against the person while incarcerated;
- ~~{(d)}~~ (e) Any previous parole violations or failures;
- ~~{(e)}~~ (f) Any potential threat to society or himself; ~~and~~
- ~~{(f)}~~ (g) ***Any potential family or community support available to the person; and***
- (h) The length of his incarceration.

3. **In determining whether to grant parole to a prisoner, the Board shall not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole.**

4. The standards adopted by the Board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime.

~~{4}~~ 5. The Board shall make available to the public a sample of the form the Board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

~~{5}~~ 6. On or before January 1 of each even-numbered year, the Board shall review comprehensively the standards adopted by the Board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

~~{6. The}~~

7. **On or before February 1 of each odd-numbered year, the Board shall ~~report to each~~ submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature ~~in~~ a written report of:**

- (a) The number and percentage of the Board's decisions that conflicted with the standards;

(b) The results and conclusions from the Board's review pursuant to subsection ~~5~~ **6**; and

(c) Any changes in the Board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

Sec. 24. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 ~~3, 4 and 5~~ ~~6 and 7~~ and in cases where a consecutive sentence is still to be served, if a prisoner ~~has served the minimum sentence of imprisonment imposed, he must be released on parole. For the purposes of determining the eligibility of a prisoner for parole pursuant to this subsection, the minimum sentence of imprisonment imposed must be calculated without consideration of any credits the prisoner may have earned to reduce his sentence pursuant to chapter 209 of NRS.~~

~~2. If the Department of Corrections determines that the population of the institutions of this State exceeds 97 percent of total capacity, the Board shall release on parole a sufficient number of prisoners to reduce the population of the institutions of this State to not more than 95 percent of total capacity as provided in this subsection. Except as otherwise provided in this subsection and subsections 1, 3, 5, 6 and 7, and in cases where a consecutive sentence is still to be served, the Board shall release a prisoner on parole 24 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS, if the prisoner:~~

~~(a) Has not been released on parole previously for that sentence; and~~

~~(b) Is not otherwise ineligible for parole.~~

~~3. Except as otherwise provided in subsections 1, 2, 5, 6 and 7, and in cases where a consecutive sentence is still to be served, if a prisoner~~ sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

↳ he must be released on parole ~~12~~ **18** months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. ~~4~~ Each parolee ~~60~~ released pursuant to this section must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122 ~~1~~, except that the Division may waive the requirement that a prisoner who is released on parole for a category D or category E felony is subject to close supervision if the Division determines that close supervision of the prisoner is impractical.

3. ~~5~~ If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, ~~this section,~~ that there is a reasonable probability that the prisoner will be a danger to public safety

while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1.

~~4. this section.~~

~~6.7~~ If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~5. 17.1~~ If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~6. 18. *The Board shall prescribe any conditions necessary for the orderly conduct of a parolee upon his release pursuant to this section.*~~

~~9. *For the purposes of release of a prisoner on parole to reduce the population of the institutions of this State pursuant to subsection 2, the Board shall give priority to the release on parole of a prisoner who has been sentenced to a term of imprisonment imposed for conviction of a crime which did not involve the use of force or violence against a victim.*~~

~~10.7 *If the Board finds pursuant to subsection 3 that there is a reasonable probability that the prisoner will be a danger to public safety and does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner its reasons for denying parole in writing.*~~

7. For the purposes of this section, the determination of the ~~{12 month}~~ 18-month ~~for 24 month~~ period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

8. *On or before January 1 of each odd-numbered year, the Board shall complete a comprehensive review of the prisoners released on parole pursuant to this section. The review must include, without limitation, a review of each decision in which the Board did not release a prisoner on parole pursuant to a finding pursuant to subsection 3.*

9. *On or before February 1 of each odd-numbered year, the Board shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report of:*

(a) The number and percentage of the decisions concerning parole in which the Board did not release a prisoner on parole pursuant to a finding pursuant to subsection 3; and

(b) The results and conclusions from the review pursuant to subsection 8.

Sec. 25. NRS 213.130 is hereby amended to read as follows:

213.130 1. The Department of Corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the State Board of Parole Commissioners of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner ~~for were part of the report of the presentence investigation~~ and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, “photograph” includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the Board. ~~All meetings must be open to the public.~~

~~4. Not later than 5 days after the date on which the Board fixes the date of the~~ *Except as otherwise provided in subsection 6, the Board shall comply with the provisions of chapter 241 of NRS and all meetings of the Board must be conducted in accordance with that chapter.*

4. In addition to satisfying the requirements set forth in NRS 241.020 and regardless of whether the Board holds a closed meeting pursuant to subsection 6, the Board shall:

(a) *Cause notice of a meeting to consider a prisoner for parole* ~~the Board shall notify the~~ *to be given in accordance with NRS 241.020 to:*

(1) *The prisoner who is being considered for parole; and*

(2) *The victim of the prisoner who is being considered for parole,* ~~of the date of the meeting and of his rights pursuant to this subsection,~~ if the victim has requested notification in writing and has provided his current address or if the victim’s current address is otherwise known by the Board ~~The~~; and

(b) *Allow the prisoner who is being considered for parole, his representative and the victim of* ~~the~~ *the prisoner who is being considered for parole* ~~may~~ *to submit documents to the Board and* ~~may~~ *to testify at the meeting held to consider the prisoner for parole.*

5. ~~A prisoner must not be considered for parole until the Board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights.~~ If ~~the~~ *the* current address *of a victim who has requested notification pursuant to subsection 4* is not provided to or otherwise known by the Board, the Board must not be held responsible if

~~{such}~~ *the notification described in subsection 4* is not received by the victim.

~~{5.}~~ 6. The Board may ~~{deliberate in private after a public meeting held}~~ *hold a closed meeting* to consider a prisoner for parole ~~{-~~

~~6.}~~ *if the Board determines that a closed meeting is necessary to protect the identity of a minor, witness, victim or other person whose identity is in need of protection for safety reasons. The Board shall develop procedures for determining when it is necessary to hold a closed meeting pursuant to this subsection.*

7. The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the Board.

~~{7.}~~ 8. *The Board shall provide to a prisoner all information which the Board will rely on in considering whether to grant parole to the prisoner not later than 30 days before the date of the meeting and shall make such information available to the prisoner and his representative at the meeting.*

9. The Board shall make its final decision concerning the parole of a prisoner and shall notify the prisoner of its final decision not later than 10 working days after the date on which the meeting is held to consider his parole.

10. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

~~{8.}~~ ~~{9.}~~ *11.* All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.

~~{9.}~~ ~~{10.}~~ *12.* For the purposes of this section, “victim” has the meaning ascribed to it in NRS 213.005.

Sec. 26. NRS 193.161 is hereby amended to read as follows:

193.161 1. Except as otherwise provided in subsection 2 and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall, *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for a ~~{term equal to and in addition to the}~~ *minimum* term of ~~{imprisonment prescribed by statute for the crime.}~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section must ~~{run}~~ :

(a) Not exceed the sentence imposed for the crime; and

(b) Run consecutively with the sentence prescribed by statute for the crime.

2. Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to subsection 1, if a felony that resulted in death or substantial bodily harm to the victim was committed on the property of a public or private school when pupils or employees of the school

were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties, and the person who committed the felony intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

- (a) For life without the possibility of parole;
- (b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or
- (c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

3. Subsection 1 does not create a separate offense but provides an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection 2 does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

4. For the purposes of this section, “school bus” has the meaning ascribed to it in NRS 483.160.

Sec. 27. NRS 193.162 is hereby amended to read as follows:

193.162 1. Except as otherwise provided in NRS 193.169 and 454.306, an adult who, with the assistance of a child:

(a) Commits a crime that is punishable as a category A or a category B felony shall, ***in addition to the term of imprisonment prescribed by statute for the crime***, be punished by imprisonment in the state prison for ~~an additional term equal to the~~ ***a minimum*** term of ~~imprisonment prescribed by statute for the crime.~~ ***not less than 1 year and a maximum term of not more than 10 years.***

(b) Commits any felony other than a category A or a category B felony shall, ***in addition to the term of imprisonment prescribed by statute for the crime***, be punished by imprisonment in the state prison for ~~an additional term not less than 25 percent and not more than 100 percent of the~~ ***a minimum*** term of ~~imprisonment prescribed by statute for the crime.~~ ***not less than 1 year and a maximum term of not more than 10 years.***

↪ An additional sentence prescribed by this section **must not exceed the sentence imposed for the crime and** runs consecutively with the sentence prescribed by statute for the crime.

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. As used in this section:

- (a) “Adult” means a person who is 18 years of age or older.
- (b) “Child” means a person who is less than 18 years of age.

Sec. 28. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ *minimum* term of ~~imprisonment prescribed by statute for the crime.~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section ~~runs~~:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

3. As used in this section, “metal-penetrating bullet” has the meaning ascribed to it in NRS 202.273.

Sec. 29. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ *minimum* term of ~~imprisonment prescribed by statute for the crime.~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section ~~runs~~:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

2. 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.

3. The provisions of subsections 1 and 2 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

4. The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

- (a) Murder;
- (b) Kidnapping in the first degree;
- (c) Sexual assault; or
- (d) Robbery.

5. As used in this section, “deadly weapon” means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Sec. 30. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

↪ shall, ***in addition to the term of imprisonment prescribed by statute for the crime***, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~term equal to and in addition to the~~ ***minimum*** term of ~~imprisonment prescribed by statute for that crime.]~~ ***not less than 1 year and a maximum term of not more than 10 years***. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person 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 5 years. The sentence prescribed by this section ***must not exceed the sentence imposed for the crime and*** runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

2. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 31. 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, ***in addition to the term of imprisonment prescribed by statute for the crime***, be punished, ***if the crime is a misdemeanor or gross misdemeanor***, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime ~~[-]~~, ***and, if the crime is a 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***. The sentence prescribed by this subsection **must not exceed the sentence imposed for the crime and** 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 against any person who is 60 years of age or older or against a vulnerable person shall, ***in addition to the term of imprisonment prescribed by statute for the crime***, be punished, ***if the crime is a misdemeanor or gross misdemeanor***, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to and in addition to the term of imprisonment prescribed by statute for the ~~criminal violation.~~ ***crime, and if the crime is a 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***. The sentence prescribed by this subsection **must not exceed the sentence imposed for the crime and** 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. 32. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366,

200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may , ***in addition to the term of imprisonment prescribed by statute for the crime***, be punished by imprisonment in the state prison for ~~an additional term not to exceed 25 percent of the~~ ***a minimum*** term of ~~imprisonment prescribed by statute for the crime.~~ ***not less than 1 year and a maximum term of not more than 10 years. A sentence of imprisonment prescribed by this section must not exceed the sentence imposed for the crime.***

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 33. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall , ***in addition to the term of imprisonment prescribed by statute for the crime***, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ ***minimum*** term of ~~imprisonment prescribed by the statute for the crime.~~ ***not less than 1 year and a maximum term of not more than 10 years.*** The sentence prescribed by this section must ~~run~~ ;

(a) Not exceed the sentence imposed for the crime; and

(b) Run consecutively with the sentence prescribed by statute for the crime.

2. 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.

3. The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

4. Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the

primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

5. In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

- (a) Characteristics of persons who are members of criminal gangs;
- (b) Specific rivalries between criminal gangs;
- (c) Common practices and operations of criminal gangs and the members of those gangs;
- (d) Social customs and behavior of members of criminal gangs;
- (e) Terminology used by members of criminal gangs;
- (f) Codes of conduct, including criminal conduct, of particular criminal gangs; and
- (g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

6. As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

- (a) Has a common name or identifying symbol;
- (b) Has particular conduct, status and customs indicative of it; and
- (c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 34. NRS 193.1685 is hereby amended to read as follows:

193.1685 1. Except as otherwise provided in this section and NRS 193.169, any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism shall , *in addition to the term of imprisonment prescribed by statute for the crime*, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ *minimum* term of ~~imprisonment prescribed by statute for the crime.~~ *not less than 1 year and a maximum term of not more than 10 years.* The sentence prescribed by this section must ~~run~~:

- (a) Not exceed the sentence imposed for the crime; and
- (b) Run consecutively with the sentence prescribed by statute for the crime.

2. Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of

imprisonment as provided pursuant to subsection 1, if a felony that resulted in death or substantial bodily harm to the victim was committed with the intent to commit, cause, aid, further or conceal an act of terrorism, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

- (a) For life without the possibility of parole;
- (b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or
- (c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

3. Subsection 1 does not create a separate offense but provides an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection 2 does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

4. The provisions of this section do not apply to an offense committed in violation of NRS 202.445.

5. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 35. NRS 241.030 is hereby amended to read as follows:

241.030 1. Except as otherwise provided in this section and NRS **213.130**, 241.031 and 241.033, a public body may hold a closed meeting to:

- (a) Consider the character, alleged misconduct, professional competence, or physical or mental health of a person.
- (b) Prepare, revise, administer or grade examinations that are conducted by or on behalf of the public body.
- (c) Consider an appeal by a person of the results of an examination that was conducted by or on behalf of the public body, except that any action on the appeal must be taken in an open meeting and the identity of the appellant must remain confidential.

2. A person whose character, alleged misconduct, professional competence, or physical or mental health will be considered by a public body during a meeting may waive the closure of the meeting and request that the meeting or relevant portion thereof be open to the public. A request described in this subsection:

- (a) May be made at any time before or during the meeting; and
- (b) Must be honored by the public body unless the consideration of the character, alleged misconduct, professional competence, or physical or mental health of the requester involves the appearance before the public body of another person who does not desire that the meeting or relevant portion thereof be open to the public.

3. A public body may close a meeting pursuant to subsection 1 upon a motion which specifies:

- (a) The nature of the business to be considered; and

(b) The statutory authority pursuant to which the public body is authorized to close the meeting.

4. This chapter does not:

(a) Apply to judicial proceedings.

(b) Prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.

(c) Prevent the exclusion of witnesses from a public or private meeting during the examination of another witness.

(d) Require that any meeting be closed to the public.

(e) Permit a closed meeting for the discussion of the appointment of any person to public office or as a member of a public body.

5. The exceptions provided by this section, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 36. ~~[A regulation adopted by the Director of the Department of Corrections pursuant to title 16 of NRS remains in effect as a regulation of the Board of State Prison Commissioners until amended or repealed by the Board of State Prison Commissioners.] (Deleted by amendment.)~~

Sec. 37. 1. This act becomes effective on July 1, 2007.

2. Sections 4 and 5 of this act expire by limitation on June 30, 2011.

Assemblyman Parks moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 431.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 300.

AN ACT relating to condominium hotels; ~~providing in skeleton form for the establishment of~~ **establishing** provisions governing condominium hotels; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~provides in skeleton form for the establishment of~~ **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:

Delete existing sections 1 through 18 of this bill and replace with the following new sections 1 through 220:

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 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. 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.

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.

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. 32. "Major component of the shared components" means any component of the shared components, including, without limitation, the facade of any building, any 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;

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.

Sec. 46. "Unit" means a residential unit, a hotel unit and any other unit which is created by the declaration.

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. 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 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.

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 owner's ability to fine residential unit owners or to prohibit use of the shared components 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.

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. 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 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.

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. 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 the declaration, 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 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 owners and hotel unit owner shall elect an executive board of at least three members, all of whom must be units' owners or, in the case of the hotel unit, 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 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 required by the declaration.

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. 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 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;

(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 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 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 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;

(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. The reserves may be used only for repair, replacement and restoration of the major components of the shared components, and must not be used for daily maintenance. The declarant 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 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 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.

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;

(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;

(b) An identification of the major components of the shared components 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 identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the shared components 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 identified pursuant to paragraph (b), after subtracting the reserves for shared components 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 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, 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 of this act. These records may, but need not, 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. 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 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.

(c) The estimated number of units in the condominium hotel.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, 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 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, 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 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 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 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 components 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 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 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 the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association 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 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 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 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 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 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. 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~~ or sections 2 to 177, inclusive, of this act, including, without limitation, the fees collected pursuant to NRS 116.31155 ~~or~~ 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~~ 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~~ 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~~ **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~~ **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 ~~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.

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 ~~and~~ 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~~ 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 ~~and~~ 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 ~~and~~ 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. 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~~ 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~~ 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~~ or section 11 of this act.

(b) "Unit-owners' association" has the meaning ascribed to it in NRS 116.011 ~~or~~ or section 7 of this act.

Sec. 220. This act becomes effective on January 1, 2008.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 433.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 459.

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; 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. ~~Section 2~~ **Sections 2 and 3** of this bill ~~limits~~ **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, and for good cause shown, 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 whether the material to be presented in the hearing is properly classified as

proprietary or confidential information. If the information is determined not to be proprietary or confidential, the Commission shall immediately open the hearing to the public. If the information is determined to be properly classified as proprietary or confidential information, the Commission shall proceed to gather the information in a manner that ensures that each member of the Commission has a reasonable and adequate opportunity to make any inquiries the member believes to be necessary and appropriate.

3. Upon completion of the information gathering portion of the hearing pursuant to subsection 2, the Nevada Tax Commission shall open the hearing to the public and begin deliberating in a manner that does not make public any proprietary or confidential information.

4. The Nevada Tax Commission shall adopt regulations which establish procedures:

(a) By which a taxpayer may request a closed hearing;

(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 ~~the~~ a hearing to receive ~~such~~ 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. 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 publication of proprietary or confidential information disclosed during a hearing conducted pursuant to this section.

7. ~~Except as otherwise provided in this subsection, as~~ As used in this section, "proprietary or confidential information" ~~;~~ ~~means:~~

(a) Means:

(1) Any trade secret or confidential ~~business~~ economic information that is submitted to the Nevada Tax Commission by the taxpayer and designated as proprietary or confidential by the Commission; or

~~[(b)]~~ (2) Any information declared by specific statute to be confidential or that the Commission is prohibited from making public by specific statute.

(b) Does not include any information that has been published for public distribution or is otherwise generally available to the public or in the public domain.

↪ As used in this subsection, “confidential ~~(business)~~ 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. ~~[The term “proprietary or confidential information” does not include any information that is included on a website, has been published for public distribution or is otherwise available to the public or in the public domain.]~~

Sec. 3. NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section ~~[(1)]~~ 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. 3.~~ *Sec. 4.* This act becomes effective on July 1, 2007.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 440.

Bill read second time.

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

Amendment No. 473.

AN ACT relating to financial transactions; prohibiting a person from engaging in certain conduct with the intent to defraud a participant in a mortgage lending transaction; prohibiting certain conduct by a foreclosure consultant; providing an administrative penalty for certain conduct by a foreclosure consultant; providing a civil cause of action against a foreclosure consultant under certain circumstances; **prohibiting a foreclosure purchaser from engaging in certain fraudulent conduct**; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, it is an unfair lending practice for a lender to knowingly or intentionally make a home loan to a borrower based solely on the borrower's equity in the home property and without determining that the borrower has the ability to repay the home loan from income or other assets. (NRS 598D.100) Section 2 of this bill clarifies that the provision applies to a low-document, no-document or stated-document home loan if the loan is

made based solely on the borrower's equity in the property or without determining the borrower's ability to repay the loan.

Section 3 of this bill establishes the crime of mortgage lending fraud, which is a category C felony. Section 3 also provides that a person who engages in a pattern of mortgage lending fraud is guilty of a category B felony. **Furthermore, under section 3, if a lender commits mortgage lending fraud, the borrower may rescind the transaction within 2 years after the transaction has been completed.** Chapters 645B and 645E of NRS govern mortgage brokers and mortgage agents and mortgage bankers, respectively.

~~f Sections 4 and 5 of this bill provide that if a person violates any provision of chapter 645B or 645E of NRS or any regulation adopted pursuant thereto, any loan relating to that violation is void and the violator is not entitled to any profit from the loan.~~

Sections 7-20 of this bill establish specific rights and duties concerning foreclosure consultants and foreclosure purchasers. Section 9 defines a foreclosure consultant as a person who promises to perform, for compensation, various services for a homeowner whose residence is in foreclosure that the foreclosure consultant represents will assist the homeowner to, for example, postpone or prevent a foreclosure sale, obtain an extension of time to repay his mortgage loan, obtain an alternative loan or mortgage, file documents with a bankruptcy court or repair the homeowner's credit after foreclosure. Section 16 prohibits a foreclosure consultant from claiming or receiving any compensation from a homeowner until after the consultant has fully performed all the services he promised to perform and prohibits other conduct relating to his compensation. Section 16 also prohibits a foreclosure consultant from acquiring any interest in the residence of the homeowner. Section 17 authorizes the Commissioner of Mortgage Lending to impose an administrative penalty of not more than \$10,000 on a foreclosure consultant who violates any provision of section 16. Section 18 creates a civil cause of action against a foreclosure consultant for a homeowner who is injured as a result of a foreclosure consultant's violation of any provision of section 16. If the homeowner prevails in his action against the foreclosure consultant, the court may award him his actual damages, punitive damages of at least 1 1/2 times his actual damages, his attorney's fees and costs of bringing the action.

Section 10 of this bill defines a foreclosure purchaser as a person who engages in the business of acquiring residences that are in foreclosure from their owners. Section 19 of this bill provides that a foreclosure purchaser who engages in conduct that defrauds or deceives a homeowner whose residence is in foreclosure is guilty of a gross misdemeanor. **Section 19.5 of this bill provides that if a foreclosure purchaser engages in conduct that defrauds or deceives a homeowner whose residence is in foreclosure, the homeowner may rescind the transaction in which the foreclosure purchaser acquired the residence of the homeowner. Section 19.5 further**

provides the procedures a homeowner must follow to rescind the transaction and prevents a homeowner from rescinding a transaction if the foreclosure purchaser has transferred an interest in the property to a bona fide purchaser.

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

Section 1. NRS 598D.040 is hereby amended to read as follows:

598D.040 "Home loan" means a consumer credit transaction that ~~is~~

~~1. Is~~ *is* secured by a mortgage loan which involves real property located within this State ~~and~~

~~2. Constitutes~~ *and includes, without limitation, a consumer credit transaction that constitutes* a mortgage under § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.

Sec. 2. NRS 598D.100 is hereby amended to read as follows:

598D.100 1. It is an unfair lending practice for a lender to:

(a) Require a borrower, as a condition of obtaining or maintaining a home loan secured by home property, to provide property insurance on improvements to home property in an amount that exceeds the reasonable replacement value of the improvements.

(b) Knowingly or intentionally make a home loan to a borrower ~~based~~, *including, without limitation, a low-document home loan, no-document home loan or stated-loan:*

(1) *Based* solely upon the equity of the borrower in the home property ~~and without~~; *or*

(2) *Without* determining ~~for verifying~~ that the borrower has the ability to repay the home loan from other assets, including, without limitation, income.

(c) Finance a prepayment fee or penalty in connection with the refinancing by the original borrower of a home loan owned by the lender or an affiliate of the lender.

(d) Finance, directly or indirectly in connection with a home loan, any credit insurance.

2. As used in this section:

(a) "Credit insurance" has the meaning ascribed to it in NRS 690A.015.

(b) "*Low-document home loan*" means a home loan:

(1) *Whose terms allow a borrower to establish his ability to repay the home loan by providing only limited verification of his income and other assets; or*

(2) *Which is evidenced only by a deed transferring some or all of the interest of the borrower in the home property to the creditor.*

(c) *"No-document home loan" means a home loan whose terms allow a borrower to establish his ability to repay the home loan without providing any verification of his income and other assets.*

(d) *"Prepayment fee or penalty" means any fee or penalty imposed by a lender if a borrower repays the balance of a loan or otherwise makes a payment on a loan before the regularly scheduled time for repayment.*

(e) *"Stated-document home loan" means a home loan whose terms allow a borrower to establish his ability to repay the home loan by providing only his own statement of verification of his income and other assets.*

Sec. 3. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person who, with the intent to defraud a participant in a mortgage lending transaction:*

(a) *Knowingly makes a false statement or misrepresentation concerning a material fact or deliberately conceals or fails to disclose a material fact;*

(b) *Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or deliberately uses or facilitates the use of another person's concealment or failure to disclose a material fact;*

(c) *Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);*

(d) *Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or*

(e) *Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,*

↪ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, 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, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. *A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.*

3. *Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.*

4. *Except as otherwise provided in this subsection, if a lender or any agent of the lender commits the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction is voidable by the borrower and the transaction may be rescinded by the borrower within*

2 years after the date the transaction is completed if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction is not voidable pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General shall investigate and prosecute a violation of this section.

~~5.~~ 6. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

- (1) The solicitation of a person to make or obtain the loan;
- (2) The representation or offer to represent another person to make or obtain the loan;
- (3) The negotiation of the terms of the loan;
- (4) The provision of services in connection with the loan; and
- (5) The execution of any document in connection with making or obtaining the loan.

~~(b)~~ (c) "Participant in a mortgage lending transaction" includes, without limitation:

- (1) A borrower as defined in NRS 598D.020;
- (2) An escrow agent as defined in NRS 645A.010;
- (3) A foreclosure consultant as defined in section 9 of this act;
- (4) A foreclosure purchaser as defined in section 10 of this act;
- (5) An investor as defined in NRS 645B.0121;
- (6) A lender as defined in NRS 598D.050;
- (7) A mortgage agent as defined in NRS 645B.0125;
- (8) A mortgage banker as defined in NRS 645E.100; and
- (9) A mortgage broker as defined in NRS 645B.0127.

~~(c)~~ (d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar intents, results, accomplices, victims or methods of commission, or are otherwise interrelating by distinguishing characteristics.

Sec. 4. ~~NRS 645B.950 is hereby amended to read as follows:~~

~~645B.950 1. Except as otherwise provided in NRS 645B.960, a person, or any general partner, director, officer, agent or employee of a person, who violates any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner is guilty of a misdemeanor.~~

~~2. In addition to any other penalty [, if]:~~

~~(a) If a person is convicted of or enters a plea of nolo contendere to a violation described in subsection 1, the court shall order the person to pay:~~

~~[(a)] (1) Court costs; and~~

~~[(b)] (2) Reasonable costs of the investigation and prosecution of the violation.~~

~~(b) If a person, or any general partner, director, officer, agent or employee of a person, violates any provision of this chapter or a regulation adopted pursuant to this chapter any loan relating to that violation is void and the person is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to that loan.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 645E.950 is hereby amended to read as follows:~~

~~645E.950 1. Except as otherwise provided in NRS 645E.960, a person, or any general partner, director, officer, agent or employee of a person, who violates any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner is guilty of a misdemeanor.~~

~~2. In addition to any other penalty, if a person, or any general partner, director, officer, agent or employee of a person, violates any provision of this chapter or any regulation adopted pursuant to this chapter any loan relating to that violation is void and the person is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to that loan.] (Deleted by amendment.)~~

Sec. 6. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 20, inclusive, of this act.

Sec. 7. *As used in sections 7 to 20, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 8 to 14, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 8. *"Covered service" includes, without limitation:*

1. Financial counseling, including, without limitation, debt counseling and budget counseling.

2. Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage or other lien on a residence in foreclosure.

3. Contacting a creditor on behalf of a homeowner.

4. Arranging or attempting to arrange for an extension of the period within which a homeowner may cure his default and reinstate his obligation pursuant to a note, mortgage or deed of trust.

5. Arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale.

6. Advising the filing of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court.

7. Giving any advice, explanation or instruction to a homeowner which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a mortgage or other lien on the residence in

foreclosure, the full satisfaction of the obligation, or the postponement or avoidance of a foreclosure sale.

Sec. 9. *"Foreclosure consultant" means a person who, directly or indirectly, makes any solicitation, representation or offer to a homeowner to perform for compensation, or who, for compensation, performs any covered service that the person represents will do any of the following:*

- 1. Prevent or postpone a foreclosure sale;*
- 2. Obtain any forbearance from any mortgagee or beneficiary of a deed of trust;*
- 3. Assist the homeowner to exercise the right of reinstatement provided in the legal documents;*
- 4. Obtain any extension of the period within which the homeowner may reinstate the homeowner's obligation;*
- 5. Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in foreclosure or included in the mortgage or deed of trust;*
- 6. Assist the homeowner in foreclosure or loan default to obtain a loan or advance of money;*
- 7. Avoid or ameliorate the impairment of the homeowner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale;*
- 8. Save the homeowner's residence from foreclosure; or*
- 9. Assist the homeowner to obtain a foreclosure reconveyance.*

Sec. 10. *"Foreclosure purchaser" means a person who, in the course of his business, vocation or occupation, acquires or attempts to acquire title to a residence in foreclosure from a homeowner.*

Sec. 11. 1. *"Foreclosure reconveyance" means a transaction that involves:*

(a) The transfer of title to a residence in foreclosure by a homeowner during a foreclosure proceeding by:

(1) The transfer of an interest in the residence in foreclosure from the homeowner; or

(2) The creation of a mortgage or other lien during the foreclosure process that allows the acquirer to obtain title to the residence in foreclosure by redeeming the property as a junior lien holder; and

(b) The subsequent conveyance, or promise of a subsequent conveyance, of an interest in the residence to the former homeowner by the acquirer, or a person acting in concert with the acquirer, that allows the former homeowner to remain in possession of the residence following the completion of the foreclosure proceeding.

2. *As used in this section, "interest in the residence" includes, without limitation, an interest in a contract for a deed, a purchase agreement, and an option to purchase or lease.*

Sec. 12. *"Foreclosure sale" means the sale of real property to enforce an obligation secured by a mortgage or lien on the property, including the exercise of a trustee's power of sale pursuant to NRS 107.080.*

Sec. 13. *"Homeowner" means the record owner of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.*

Sec. 14. *"Residence in foreclosure" means residential real property consisting of not more than four family dwelling units, one of which the homeowner occupies as his principal place of residence, and against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080.*

Sec. 15. *The provisions of sections 7 to 20, inclusive, of this act do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:*

1. *An attorney at law rendering services in the performance of his duties as an attorney at law;*

2. *A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;*

3. *A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;*

4. *A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;*

5. *A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;*

6. *Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;*

7. *A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, while acting under the authority of his license;*

8. *A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or*

9. *A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.*

Sec. 16. *A foreclosure consultant shall not:*

1. *Claim, demand, charge, collect or receive any compensation until after the foreclosure consultant has fully performed each covered service that he contracted to perform or represented he would perform.*

2. *Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.*

3. *Take any wage assignment, lien on real or personal property, assignment of a homeowner's equity or other interest in a residence in foreclosure or other security for the payment of compensation. Any such security is void and unenforceable.*

4. *Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.*

5. *Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.*

6. *Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.*

Sec. 17. 1. *In addition to any other remedy or penalty, the Commissioner may, after giving notice and opportunity to be heard, impose an administrative penalty of not more than \$10,000 on a foreclosure consultant who violates any provision of section 16 of this act.*

2. *Except as otherwise provided in this section, all money collected from administrative penalties imposed pursuant to this section must be deposited in the State General Fund.*

3. *The money collected from an administrative penalty may be deposited with the State Treasurer for credit to the Fund for Mortgage Lending created by NRS 645F.270 if:*

(a) *The person pays the administrative penalty without exercising his right to a hearing to contest the penalty; or*

(b) *The administrative penalty is imposed in a hearing conducted by a hearing officer or panel appointed by the Commissioner.*

4. *The Commissioner may appoint one or more hearing officers or panels and may delegate to those hearing officers or panels the power of the Commissioner to conduct hearings, determine violations and impose the penalties authorized by this section.*

5. *If money collected from an administrative penalty is deposited in the State General Fund, the Commissioner may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.*

Sec. 18. 1. *A homeowner who is injured as a result of a foreclosure consultant's violation of a provision of section 16 of this act may bring an action against the foreclosure consultant to recover damages caused by the violation, together with reasonable attorney's fees and costs.*

2. *If the homeowner prevails in the action, the court may award such punitive damages as may be determined by a jury, or by a court sitting without a jury, but in no case may the punitive damages be less than 1 1/2 times the amount awarded to the homeowner as actual damages.*

Sec. 19. *A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of sections 7 to 20, inclusive, of this act, including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$50,000, or by both fine and imprisonment.*

Sec. 19.5. 1. In addition to the penalty provided in section 19 of this act and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of sections 7 to 20, inclusive, of this act, including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure is voidable by the homeowner and the transaction may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. A transaction is not voidable pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 20. *The rights, remedies and penalties provided pursuant to the provisions of sections 7 to 20, 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, including, without limitation, any criminal penalty that may be imposed pursuant to section 19 of this act.*

Assemblyman Conklin moved the adoption of the amendment.
Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 443.

Bill read second time.

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

Amendment No. 500.

AN ACT relating to communicable diseases; making various changes to provisions concerning the human immunodeficiency virus; ~~providing a penalty;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 8 of this bill requires each county designated by the Director of the Department of Health and Human Services to provide free testing for the human immunodeficiency virus to persons on an anonymous basis. Section 12 of this bill requires the Health Division of the Department of Health and Human Services to reimburse those counties for certain costs associated with providing such testing. Sections 10 and 11 of this bill require each county that the Director designates to provide such testing to: (1) provide certain information to persons who receive a test; and (2) submit to the Health Division a plan for how the county will carry out testing.~~

~~Section 9 of this bill requires the Health Division to establish and maintain for each county a list of providers of health care and medical facilities that~~

~~treat patients with the human immunodeficiency virus and acquired immunodeficiency syndrome.~~

~~Section 13 of this bill sets forth penalties for the disclosure to third persons of results of a test for the human immunodeficiency virus.~~

~~Section 14 of this bill requires providers of health care, medical facilities and medical laboratories to provide to persons who test positive for the human immunodeficiency virus, or are diagnosed with acquired immunodeficiency syndrome, appropriate information and referrals to ensure that the persons receive sufficient medical treatment and counseling.~~

~~Section 16 of this bill provides that the Health Division may require any medical facility or medical laboratory that procures, processes, distributes or uses whole blood, plasma, blood product or blood derivative to submit to the Health Division monthly reports concerning the results of tests conducted to detect the presence of communicable diseases.]~~

Section 3 of this bill expresses the sense 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 to offer referrals for certain health care services to those who test positive for the human immunodeficiency virus.

Section ~~18~~ 5 of this bill prohibits employment discrimination against a person who has tested positive for 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.

~~Sections 21-23 of this bill provide that an insurer may decline an application for life insurance or disability insurance on the basis that the applicant tested positive for the human immunodeficiency virus. However, an insurer may not test for the presence of the human immunodeficiency virus unless the insurer obtains the written consent of the applicant and pays the cost of the test. Section 24 of this bill sets forth penalties for the disclosure to third persons by an insurer of results of a test for the human immunodeficiency virus.]~~

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

Delete existing sections 1 through 24 of this bill and replace with the following new sections 1 through 6:

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 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.

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;

(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.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 461.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 595.

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; 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 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 ~~members of the Legislature a detailed description of~~ **Legislature concerning** the use of that money ~~;~~ **, and authorizes the Legislative Commission to review and investigate those expenditures.**

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 ~~money~~ proceeds, including, without limitation, ~~for~~;

(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:

~~1-1~~ (I) Conforms to all provisions of this Act; and

~~2-1~~ (II) Does not replace or supplant funding which existed before October 1, 2005, for the police department ~~or~~

~~to the Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature.~~; 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. 2.~~ Sec. 3. This act becomes effective ~~upon passage and approval~~ on October 1, 2007, and expires by limitation on October 1, 2025.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 462.

Bill read second time.

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

Amendment No. 385.

AN ACT relating to real property; excepting certain sales or leases of real property by governmental entities from requirements that the entities conduct appraisals of the real property before the sale or lease of the real property and that the entities sell or lease the real property by auction; ~~requiring governmental entities~~ **authorizing a governmental entity** to hold a public ~~hearings to review certain appraisals of~~ **hearing in lieu of having a second appraisal conducted before the sale or lease of real property**; requiring persons requesting to purchase real property from governmental entities by auction to deposit a certain amount of money to pay the costs incurred by the entity in acting upon the application; **providing that a political subdivision may convey real property to the State without charge under certain circumstances; making various other changes relating to the sale and lease of real property by governmental entities**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Land Registrar, the board of county commissioners of each county, and the governing body of each incorporated city to obtain two independent appraisals of any real property when selling or leasing the property and to sell or lease the property upon sealed bids followed by oral offers. (NRS 244.2795, 244.281, 244.283, 268.059, 268.062, 321.007, 321.335) Sections 1, 3, 4, ~~and~~ **6 and 7** of this bill amend that requirement to require **that** the State Land Registrar, each board of county commissioners and each city governing body ~~to~~, **when selling or leasing real property: (1) obtain two independent appraisals of the property; or (2) obtain one independent appraisal of real property when selling or leasing** the property ~~[Sections 2-4, 6, 7 and 9 of this bill also require the State Land Registrar, each board of county commissioners and each city governing body to hold a public hearing to review those appraisals.]~~ **and hold a public hearing on the matter of the fair market value of the property.** Sections 1-4 and 6-8 of this bill except property sold or leased to a public utility for a public purpose and property sold or leased to the State or another governmental entity from the requirement for an appraisal and to be sold or leased upon sealed bids followed by oral offers. **Sections 1 and 2 of this bill except property leased pursuant to a contract entered into pursuant to chapter 333 of NRS from those requirements.**

Existing law provides for the board of county commissioners of each county and the governing body of each incorporated city to sell real property by auction. (NRS 244.282, 268.062) Sections 5 and 8 of this bill require a person requesting to purchase real property from a county or city by auction to deposit with the board of commissioners or governing body an amount of money sufficient to pay the costs of the board of commissioners or governing body in acting upon the request.

Existing law authorizes the State to lease state land to certain nonprofit organizations or educational institutions for a reduced charge. (NRS 322.065) Sections 2.5 and 5.5 of this bill provide similar authority to the boards of county commissioners of counties and to the governing bodies of cities.

Existing law provides that a political subdivision may convey real property to another political subdivision or an Indian tribe without charge if the property is to be used for a public purpose. (NRS 277.053) Section 9.3 of this bill provides that a political subdivision may also convey real property to the State or an agency of the State without charge if the property is to be used for a public purpose.

Under existing law, the sale or lease of any portion of the property of a municipal airport is required to be made by public auction. (NRS 496.080) Section 9.7 of this bill provides that, in a county whose population is less than 50,000 (currently counties other than Clark and Washoe Counties, and Carson City), leases of property at a county airport are not subject to requirements relating to appraisal and public auction.

Sections 1, 3, 4 and 6-9 of this bill provide additionally that if land or real property is sold or leased in violation of the provisions thereof, the sale or lease is void and any change to an ordinance or law governing the zoning or use of that land or real property is void if the change occurs within the 5-year period after the void sale or lease.

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

Section 1. NRS 321.007 is hereby amended to read as follows:

321.007 1. Except as otherwise provided in subsection 5, NRS 322.063, 322.065 or 322.075, except as otherwise required by federal law , *except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity , except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS* and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) ~~(Obtain)~~ Except as otherwise provided in this paragraph, obtain two independent appraisals ~~for an independent appraisal~~ of the land before selling

or leasing it. **If the Interim Finance Committee grants its approval after discussion of the fair market value of the land, one independent appraisal of the land is sufficient before selling or leasing it.** The **appraisal or appraisals ~~appraisal~~, as applicable,** must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select the **one independent appraiser or two independent appraisers ~~independent appraiser~~, as applicable,** from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of **each ~~the~~** appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesman when offering such a property for lease.

6. If land is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the land is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 2. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.125, 321.510, 322.063, 322.065 or 322.075, except as otherwise required by federal law, **except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS** and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or

less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, he may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall ~~cause~~ ~~≠~~

~~(a) Cause it to be appraised by a competent~~ [appraisers] ~~appraiser~~ ~~selected pursuant to~~ **comply with the provisions of** NRS 321.007; ~~≠~~ ~~and~~

~~(b) Within 30 days after receipt of the report of the appraisal, hold a public hearing to review the appraisal in the county where the land to be sold or leased is situated.]~~

4. After ~~receipt of the report of the~~ [appraisers,] ~~appraiser and after holding the public hearing pursuant to subsection 3,] **complying with the provisions of NRS 321.007,** the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as he deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.~~

5. The notice must contain:

- (a) A description of the land to be sold or leased;
- (b) A statement of the terms of sale or lease;
- (c) A statement that the land will be sold pursuant to subsection 6; and
- (d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land

Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if he deems the bid or offer to be:

- (a) Contrary to the public interest.
- (b) For a lesser amount than is reasonable for the land involved.
- (c) On lands which it may be more beneficial for the State to reserve.
- (d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.

10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must as applicable obtain a new appraisal or new appraisals of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 2.5. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners of a county may lease real property to a nonprofit organization that:

(a) Is recognized as exempt under section 501(c)(3) of the Internal Revenue Code;

(b) Is affiliated by contract or other written agreement with the county; and

(c) Provides to residents of the county or to other persons a service that the county would otherwise be required to expend money to provide,

↳ under such terms and for such consideration as the board determines reasonable based upon the costs and benefits to the county and the recommendation of any county officers who may be involved in approving the lease.

2. To lease real property pursuant to this section, the board of county commissioners must approve the lease and establish the recommended amount of rent to be received for the real property. The board shall render a decision on an application to lease real property pursuant to this section within 60 days after it receives the application.

3. In determining the amount of rent for the lease of real property pursuant to this section, consideration must be given to:

(a) The amount the lessee is able to pay;

(b) Whether the real property will be used by the lessee to perform a service of value to members of the general public;

(c) Whether the service to be performed on the real property will be of assistance to any agency of the county; and

(d) The expenses, if any, that the county is likely to incur to lease real property pursuant to this section in comparison to other potential uses of the real property.

4. The board may waive any fee for the consideration of an application submitted pursuant to this section.

Sec. 3. NRS 244.2795 is hereby amended to read as follows:

244.2795 1. Except as otherwise provided in NRS 244.189, 244.276, 244.279, 244.2825, 244.284, 244.287, 244.290, section 2.5 of this act and 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election, the board of county commissioners shall, when offering any real property for sale or lease:

(a) ~~Obtain~~ **Except as otherwise provided in this paragraph, obtain two independent appraisals ~~for an independent appraisal~~ of the real property before selling or leasing it. If the board of county commissioners holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it.** The **appraisal or appraisals ~~appraisal~~, as applicable,** must have been prepared not more than 6 months before the date on which the real property is offered for sale or lease.

(b) Select the **one independent appraiser or two independent appraisers ~~independent appraiser~~, as applicable,** from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of **each ~~the~~** appraiser selected pursuant to paragraph (b). The determination of the board of county commissioners as to the qualifications of the appraiser is conclusive.

2. The board of county commissioners shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the board. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.

4. An appraiser shall not perform an appraisal on any real property for sale or lease by the board of county commissioners if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

5. ~~Within 30 days after receipt of the report of the appraisal conducted pursuant to subsection 1, the board of county commissioners shall hold a public hearing to review the appraisal.~~ **If real property is sold or leased in violation of the provisions of this section:**

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 4. NRS 244.281 is hereby amended to read as follows:

244.281 Except as otherwise provided in this section and NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.284, 244.287, 244.290, **section 2.5 of this act, and** 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development

agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less, ***except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose*** and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election:

1. When a board of county commissioners has determined by resolution that the sale or lease of any real property owned by the county will be for purposes other than to establish, align, realign, change, vacate or otherwise adjust any street, alley, avenue or other thoroughfare, or portion thereof, or flood control facility within the county and will be in the best interest of the county, it may:

(a) Sell the property in the manner prescribed for the sale of real property in NRS 244.282.

(b) Lease the property in the manner prescribed for the lease of real property in NRS 244.283.

2. Before the board of county commissioners may sell or lease any real property as provided in subsection 1, it shall:

(a) Post copies of the resolution described in subsection 1 in three public places in the county; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➔ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. ~~##~~ ***Except as otherwise provided in this subsection, if*** the board of county commissioners by its resolution further finds that the property to be sold or leased is worth more than \$1,000, the board shall appoint two or more ~~one~~ disinterested, competent real estate appraisers ~~(appraiser)~~ pursuant to NRS 244.2795 to appraise the property. ~~and, except~~ ***If the board of county commissioners holds a public hearing on the matter of the fair market value of the property, one disinterested, competent appraisal of the property is sufficient before selling or leasing it. Except*** for property acquired pursuant to NRS 371.047, ***the board of county commissioners*** shall not sell or lease it for less than the highest appraised value.

~~4. Within 30 days after receipt of the appraisal conducted pursuant to subsection 3, the board of county commissioners shall hold a public hearing to review the appraisal.~~

~~5.~~ If the property is appraised at \$1,000 or more, the board of county commissioners may:

(a) Lease the property; or

(b) Sell the property either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.

5. ~~6.~~ A board of county commissioners may sell or lease any real property owned by the county without complying with the provisions of NRS 244.282 or 244.283 to:

(a) A person who owns real property located adjacent to the real property to be sold or leased if the board has determined by resolution that:

(1) The real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property for sale or lease; and

(2) The sale will be in the best interest of the county.

(b) ~~Another~~ **The State or another** governmental entity if:

(1) The sale or lease restricts the use of the real property to a public use; and

(2) The board adopts a resolution finding that the sale or lease will be in the best interest of the county.

6. ~~7.~~ A board of county commissioners that disposes of real property pursuant to subsection 4 ~~5~~ is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

7. ~~8.~~ If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the board of county commissioners may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the board of county commissioners must obtain a new appraisal of the real property pursuant to the provisions of NRS 244.2795 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of

the real property, the board of county commissioners may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

8. ~~9.~~ If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

9. As used in this section, “flood control facility” has the meaning ascribed to it in NRS 244.276.

Sec. 5. NRS 244.282 is hereby amended to read as follows:

244.282 1. Except as otherwise provided in NRS 244.279, before ordering the sale at auction of any real property the board shall, in open meeting by a majority vote of the members, adopt a resolution declaring its intention to sell the property at auction. The resolution must:

(a) Describe the property proposed to be sold in such a manner as to identify it.

(b) Specify the minimum price and the terms upon which it will be sold.

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the board to be held at its regular place of meeting, at which sealed bids will be received and considered.

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold at auction; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

↪ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the board, all sealed bids which have been received must, in public session, be

opened, examined and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

4. Before accepting any written bid, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the board may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

6. The board may, either at the same session or at any adjourned session of the same meeting held within the 10 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale.

7. Any resolution of acceptance of any bid made by the board must authorize and direct the chairman to execute a deed and to deliver it upon performance and compliance by the purchaser with all the terms or conditions of his contract which are to be performed concurrently therewith.

8. All money received from sales of real property must be deposited forthwith with the county treasurer to be credited to the county general fund.

9. The board may require any person requesting that real property be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the board in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

10. If real property is sold in violation of the provisions of this section:

(a) The sale is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale.

Sec. 5.5. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body may lease real property to a nonprofit organization that:

(a) Is recognized as exempt under section 501(c)(3) of the Internal Revenue Code;

(b) Is affiliated by contract or other written agreement with the city; and

(c) Provides to residents of the city or to other persons a service that the city would otherwise be required to expend money to provide.

↪ under such terms and for such consideration as the governing body determines reasonable based upon the costs and benefits to the city and the recommendation of any city officers who may be involved in approving the lease.

2. To lease real property pursuant to this section, the governing body must approve the lease and establish the recommended amount of rent to be received for the real property. The governing body shall render a decision on an application to lease real property pursuant to this section within 60 days after it receives the application.

3. In determining the amount of rent for the lease of real property pursuant to this section, consideration must be given to:

(a) The amount the lessee is able to pay;

(b) Whether the real property will be used by the lessee to perform a service of value to members of the general public;

(c) Whether the service to be performed on the real property will be of assistance to any agency of the city; and

(d) The expenses, if any, that the city is likely to incur to lease real property pursuant to this section in comparison to other potential uses of the real property.

4. The governing body may waive any fee for the consideration of an application submitted pursuant to this section.

Sec. 6. NRS 268.059 is hereby amended to read as follows:

268.059 1. Except as otherwise provided in NRS 268.048 to 268.058, inclusive, section 5.5 of this act and 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election, the governing body shall, when offering any real property for sale or lease:

(a) ~~Obtain~~ Except as otherwise provided in this paragraph, obtain two independent appraisals ~~for an independent appraisal~~ of the real property before selling or leasing it. If the governing body holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it. The appraisal or appraisals ~~appraisal~~, as applicable, must be based on the zoning of the real property as set forth in the master plan for the city and

must have been prepared not more than 6 months before the date on which real property is offered for sale or lease.

(b) Select the one independent appraiser or two independent appraisers ~~independent appraiser~~, as applicable, from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser ~~the appraiser~~ selected pursuant to paragraph (b). The determination of the governing body as to the qualifications of the appraiser is conclusive.

2. The governing body shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the governing body. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the property owner or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any real property offered for sale or lease by the governing body if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

5. ~~Within 30 days after the receipt of the report of the appraisal conducted pursuant to subsection 1, the governing body shall hold a public hearing to review the appraisal.~~ If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 7. NRS 268.061 is hereby amended to read as follows:

268.061 Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, section 5.5 of this act and 278.479 to 278.4965, inclusive, except as otherwise provided by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less, **except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose** and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election:

1. If a governing body has determined by resolution that the sale or lease of any real property owned by the city will be in the best interest of the city, it may sell or lease the real property in the manner prescribed for the sale or lease of real property in NRS 268.062.

2. Before the governing body may sell or lease any real property as provided in subsection 1, it shall:

(a) Post copies of the resolution described in subsection 1 in three public places in the city; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

↪ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. If the governing body by its resolution finds additionally that the real property to be sold is worth more than \$1,000, the ~~board~~ **governing body** shall , as applicable, conduct an appraisal or appraisals pursuant to NRS 268.059 to determine the value of the real property. ~~and, except~~ **Except** for real property acquired pursuant to NRS 371.047, **the governing body** shall not sell or lease it for less than the highest appraised value.

4. ~~Within 30 days after receipt of the report of the appraisal conducted pursuant to subsection 3, the governing body shall hold a public hearing to review the appraisal.~~

~~5.~~ If the real property is appraised at \$1,000 or more, the governing body may:

(a) Lease the real property; or

(b) Sell the real property for:

(1) Cash; or

(2) Not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust bearing such interest and upon such further terms as the governing body may specify.

5. ~~6.~~ A governing body may sell or lease any real property owned by the city without complying with the provisions of this section and NRS 268.059 and 268.062 to:

(a) A person who owns real property located adjacent to the real property to be sold or leased if the governing body has determined by resolution that:

(1) The real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; and

(2) The sale or lease will be in the best interest of the city.

(b) ~~Another~~ **The State or another** governmental entity if:

(1) The sale or lease restricts the use of the real property to a public use; and

(2) The governing body adopts a resolution finding that the sale or lease will be in the best interest of the city.

6. ~~7.7~~ A governing body that disposes of real property pursuant to subsection 5. ~~6.7~~ is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

7. ~~8.7~~ If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the governing body may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the governing body must obtain a new appraisal of the real property pursuant to the provisions of NRS 268.059 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the governing body may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

8. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 8. NRS 268.062 is hereby amended to read as follows:

268.062 1. Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, **section 5.5 of this act** and 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant

to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less , *except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose* and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, the governing body shall, in open meeting by a majority vote of the members and before ordering the sale or lease at auction of any real property, adopt a resolution declaring its intention to sell or lease the property at auction. The resolution must:

(a) Describe the property proposed to be sold or leased in such a manner as to identify it;

(b) Specify the minimum price and the terms upon which the property will be sold or leased; and

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the governing body to be held at its regular place of meeting, at which sealed bids will be received and considered.

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold or leased at auction; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

↪ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the ~~board,~~ **governing body**, all sealed bids which have been received must, in public session, be opened, examined and declared by the governing body. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or lease and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the governing body rejects all bids.

4. Before accepting any written bid, the governing body shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy or lease the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

6. The governing body may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

7. Any resolution of acceptance of any bid made by the governing body must authorize and direct the chairman to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessor with all the terms or conditions of his contract which are to be performed concurrently therewith.

8. The governing body may require any person requesting that real property be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the governing body in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

9. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 9. NRS 268.063 is hereby amended to read as follows:

268.063 1. A governing body may sell, lease or otherwise dispose of real property for the purposes of redevelopment or economic development:

- (a) Without first offering the real property to the public; and
- (b) For less than fair market value of the real property.

2. Before a governing body may sell, lease or otherwise dispose of real property pursuant to this section, the governing body must:

(a) ~~Obtain~~ ***As applicable, obtain*** an appraisal ***or appraisals*** of the property pursuant to NRS 268.059; and

(b) Adopt a resolution finding that it is in the best interests of the public to sell, lease or otherwise dispose of the property:

- (1) Without offering the property to the public; and

(2) For less than fair market value of the real property.

3. ~~Within 30 days after receipt of the report of the appraisal conducted pursuant to subsection 2, the governing body shall hold a public hearing to review the appraisal.~~ **If real property is sold, leased or otherwise disposed of in violation of the provisions of this section:**

(a) The sale, lease or other disposal is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale, lease or other disposal.

4. As used in this section:

(a) "Economic development" means:

(1) The establishment of new commercial enterprises or facilities within the city;

(2) The support, retention or expansion of existing commercial enterprises or facilities within the city;

(3) The establishment, retention or expansion of public, quasi-public or other facilities or operations within the city;

(4) The establishment of residential housing needed to support the establishment of new commercial enterprises or facilities or the expansion of existing commercial enterprises or facilities; or

(5) Any combination of the activities described in subparagraphs (1) to (4), inclusive,

↳ to create and retain opportunities for employment for the residents of the city.

(b) "Redevelopment" has the meaning ascribed to it in NRS 279.408.

Sec. 9.3. NRS 277.053 is hereby amended to read as follows:

277.053 A governing body of a political subdivision may convey real property to **the State, any agency of the State,** another political subdivision or an Indian tribe without charge if the property is to be used for a public purpose.

Sec. 9.5. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045, or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, **and section 2.5 of this act**, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

- (a) Abutter's rights of light, view or air.
- (b) Easements of access to and from abutting land.
- (c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045.

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

- (a) Constitutes a taking of all or any part of the property, or interest therein;
- (b) Lowers the value of the property; or
- (c) Constitutes a nuisance.

5. As used in this section:

- (a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.
- (b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.
- (c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 9.7. NRS 495.040 is hereby amended to read as follows:

495.040 1. The boards of county commissioners of the respective counties of this state may lease real and personal property of their county for use and occupancy as airports, airport facilities or airport service, to whom and upon such conditions and terms as they deem proper, for a term or terms not exceeding 99 years.

2. Before entering into any agreement for the lease of property as set forth in subsection 1, the board of county commissioners shall publish notice of its intention in a newspaper of general circulation published within the county at least once a week for 21 days or three times during a period of 10 days. If there is not a newspaper of general circulation within the county, the board shall post a notice of its intention in a public place at least once a week for 30 days. The notice must specify that a regular meeting is to be held, at which meeting any interested person may appear. No such lease or agreement may be entered into by the board until after the notice has been given and a meeting held as provided in this subsection.

3. The provisions of NRS 244.281 and 496.080 do not apply to any lease entered into pursuant to this section by a board of county commissioners in a county whose population is less than 50,000.

Sec. 10. This act becomes effective on July 1, 2007.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 490.

Bill read second time.

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

Amendment No. 503.

AN ACT relating to mentally ill persons; requiring a court to seal 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 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~~ **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.** 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 ~~in connection with an application for a permit to carry a concealed firearm.~~ **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 ~~voluntarily or as the result of a noncriminal proceeding.~~ for the purpose of obtaining mental health treatment.

2. ~~The~~ Except as otherwise provided in subsection 4, 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;

(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.

~~3.~~ 4. A governmental entity is entitled to inspect court records that are sealed pursuant 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. 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 ~~an~~;

(a) An application for a permit to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive ~~is~~

~~is~~;

(b) A transfer of a firearm; or

(c) An application for a position of employment described in subsection

4.

6. As used in this section ~~is~~, "seal" ~~is~~;

(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.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed 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. 522.

AN ACT relating to workers' compensation; revising various duties of employers, insurers and claimants under the workers' compensation system; revising certain procedures for accepting ~~[, denying and contesting]~~ 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 employer to furnish the injured employee with the ~~[name]~~ **names** of at least two physicians or chiropractors qualified to examine the employee. **From among those names, 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 ~~[, at any time,]~~ require or permit the disclosure of any other information concerning the employee's physical condition ~~[that is not directly related to the workplace injury].~~

~~Under existing law, if an insurer fails to respond within 30 days to a written request for a determination regarding a workers' compensation claim, a hearing officer must treat the insurer's failure to respond as a denial of the claim. (NRS 616C.315) Section 2 of this bill provides that the insurer's failure to respond must be treated as an acceptance of the claim.~~

~~Existing law requires the claimant or the employer to notify the insurer of a change of address. (NRS 616C.315) Section 2 of this bill provides that only the employer has the duty to notify the insurer of a change of address.]~~ 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) ~~[Section]~~ **Sections 1.5 and 3** of this bill ~~[requires]~~ **require** the insurer to ~~[send notice of]~~ **mail** its **written** determination

regarding a claim to the claimant or the person acting on behalf of the claimant ~~{by certified or registered mail. Section 3 also provides that the insurer is responsible for determining and using the correct mailing address when providing such notice.}~~ **within the specified period and to obtain a certificate of mailing at the time the written determination 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.**

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) 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** furnish the names, addresses and telephone numbers of ~~{one}~~ **two** or more physicians or chiropractors ~~{}~~ **who are qualified to conduct the examination. From among the names furnished by the employer, 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 ~~{, at any time,}~~ require the employee to disclose or permit the disclosure of any other information concerning his physical condition ~~{, that is not directly related to the injury for which treatment is being sought.}~~ **except as required by NRS 616C.177.**

3. Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

4. 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 ~~and~~, 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.

~~and~~

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 a certificate of mailing.

5. The failure of the insurer to obtain a certificate of mailing shall be deemed to be a failure of the insurer to mail the written determination as required by this section.

6. Upon request, the insurer shall provide a copy of the certificate of mailing 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. ~~NRS 616C.315 is hereby amended to read as follows:~~

~~616C.315 1. Any person who is subject to the jurisdiction of the hearing officers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may request a hearing before a hearing officer of any matter within the hearing officer's authority. The insurer shall provide, without cost, the forms necessary to request a hearing to any person who requests them.~~

~~2. A hearing must not be scheduled until the following information is provided to the hearing officer:~~

~~(a) The name of:~~

~~(1) The claimant;~~

~~(2) The employer; and~~

~~(3) The insurer or third-party administrator;~~

~~(b) The number of the claim; and~~

~~(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.~~

~~3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787 and 616C.305, a person who is aggrieved by:~~

~~(a) A written determination of an insurer; or~~

~~(b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved;~~

~~may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request. [an acceptance of the claim.]~~

~~4. Failure to file a request for a hearing within the period specified in subsection 3 may be excused if the person aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to request a hearing. The [claimant or] employer shall notify the insurer of a change of address.~~

~~5. The hearing before the hearing officer must be conducted as expeditiously and informally as is practicable.~~

~~6. The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer. (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 ~~[the payment of]~~ compensation ~~[to a claimant]~~ 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 ~~[by sending its written determination by certified or registered mail to:~~

~~(a) The claimant; or~~

~~(b) The person acting on behalf of the claimant pursuant to NRS 617.344,~~

~~not later than]~~ 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 a certificate of mailing.

3. The failure of the insurer to obtain a certificate of mailing shall be deemed to be a failure of the insurer to mail the written determination as required by this section.

4. Upon request, the insurer shall provide a copy of the certificate of mailing to the claimant or the person acting on behalf of the claimant.

5. For the purposes of this section, the insurer ~~[is responsible for determining and using the correct]~~ shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant ~~[pursuant to NRS 617.344]~~ 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.*

Sec. 5. This act becomes effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 507.

Bill read second time.

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

Amendment No. 221.

AN ACT relating to children; requiring certain facilities which have physical custody of children pursuant to the order of a court to ensure that employees who come into direct contact with children in the facilities receive certain training; requiring an annual inspection of certain facilities located outside of this State which have physical custody of children from this State; requiring certain child care facilities to be licensed by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services rather than by a city or county licensing agency; making various changes concerning the annual inspections of certain facilities which have physical custody of children pursuant to the order of a court; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1, 6, 12, 13 ~~(, 14 and 17)~~ **and 14** of this bill require certain facilities that have custody of children pursuant to the order of a court to ensure that each employee of the facility that comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter concerning various issues affecting the health, welfare, safety and civil and other rights of those children.

Section 2 of this bill requires the Administrator of the Division of Child and Family Services of the Department of Health and Human Services or his designee to inspect **physically** any ~~(out-of-state)~~ **out-of-state** facility to which a child from this State who is in the custody of the Division may be

transferred **before or at the time of the transfer** to ensure the appropriateness of the placement. Section 2 further requires the Administrator or his designee to inspect **physically** the facility and interview the child placed in the out-of-state facility at least one time each year.

Existing law authorizes the licensing agency of a county or incorporated city, if established, to license child care facilities in the county or city. (NRS 432A.131) Sections 5, 8 and 9 of this bill provide that certain types of child care facilities must be licensed by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services regardless of whether there is a county or city licensing agency. (NRS 432A.024, 432A.131)

Sections 10, 15 ~~16 and 24~~ **and 16** of this bill require that annual inspections of facilities which have custody of children pursuant to the order of a court include the inspection of certain areas and require that the reports of such inspections be made public. (NRS 432A.180, 444.330, 444.335) ~~449.235~~

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;**
- (b) Policies and procedures concerning the use of force and restraint on children;**
- (c) The rights of children in the home;**
- (d) Suicide awareness and prevention;**
- (e) The administration of medication to children;**
- (f) Applicable state and federal constitutional and statutory rights of children in the home;**
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and**
- (h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.**

2. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 2. Chapter 432 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before or at the time the Division ~~may transfer~~ transfers a child who has been committed to the custody of the Division to a ~~placement~~ facility located outside this State, the Administrator or his designee shall

physically inspect the facility ~~[to which the child may be transferred]~~ to determine whether the facility:

- (a) Provides the services or treatment necessary for the child;*
- (b) Is either accredited or licensed and in good standing with the entity which accredits or licenses the facility; and*
- (c) Is subject to health inspections and the results of any such health inspections conducted within the immediately preceding 3 years.*

2. If a child is placed in a facility that is located outside this State, the Administrator of the Division or his designee shall, at least one time each year, to ensure the continued appropriateness of the placement:

- (a) ~~Inspect~~ Physically inspect the facility;*
- (b) Review the services being provided to the child at the facility and any treatment plan established for the child; and*
- (c) Interview the child.*

3. The provisions of this section apply to any child committed to the custody of the Division pursuant to title 5 of NRS, chapter 432B or 433B of NRS or pursuant to any other authority.

Sec. 3. NRS 432.080 is hereby amended to read as follows:

432.080 All administrative expenses incurred by the Division in carrying out the provisions of NRS 432.010 to 432.085, inclusive, **and section 2 of this act** must be paid out of money which may be appropriated by the Legislature from the State General Fund and out of such other money as may be made available to the Division for the payment of administrative expenses. Disbursements must be made upon claims filed and allowed in the same manner as other money in the State Treasury is disbursed. All claims must be approved by the Administrator before they are paid.

Sec. 4. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.

Sec. 5. *"Child care institution" means a facility which provides care and shelter during the day and night and provides developmental guidance to 16 or more children who do not routinely return to the homes of their parents or guardians. Such an institution may also provide, without limitation:*

- 1. Education to the children according to a curriculum approved by the Department of Education;*
- 2. Services to children who have been diagnosed as severely emotionally disturbed as defined in NRS 433B.080, including, without limitation, services relating to mental health and education; or*
- 3. Emergency shelter to children who have been placed in protective custody pursuant to chapter 432B of NRS.*

Sec. 6. *1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually*

thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the emergency shelter;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the emergency shelter;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the emergency shelter; and
- (h) Such other matters as required by the Board.

2. The Board shall adopt regulations necessary to carry out the provisions of this section.

Sec. 7. NRS 432A.020 is hereby amended to read as follows:

432A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432A.0205 to 432A.028, inclusive, **and section 5 of this act**, have the meanings ascribed to them in those sections.

Sec. 8. NRS 432A.024 is hereby amended to read as follows:

432A.024 1. "Child care facility" means:

(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;

(b) An on-site child care facility; ~~for~~

(c) **A child care institution; or**

(d) An outdoor youth program.

2. "Child care facility" does not include:

(a) The home of a natural parent or guardian, foster home as defined in ~~chapter 424 of~~ NRS **424.014** or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; or

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity.

Sec. 9. NRS 432A.131 is hereby amended to read as follows:

432A.131 1. Child care facilities, **other than child care institutions**, in any county or incorporated city where the governing body has established an agency for the licensing of child care facilities and enacted an ordinance requiring that child care facilities be licensed by the county or city need not be licensed by the Bureau. The licensing agency shall adopt such standards

and other regulations as may be necessary for the licensing of child care facilities, and the standards and regulations:

- (a) Must be not less restrictive than those adopted by the Board; and
- (b) Take effect only upon their approval by the Bureau.

2. An agency for the licensing of child care facilities established by a city or county may waive compliance with a particular standard or other regulation by a child care facility if:

(a) The agency finds that the practices and policies of that facility are substantially equivalent to those required by the agency in its standards and other regulations; and

(b) The waiver does not allow a practice which violates a regulation adopted by the Board.

3. A governing body may adopt such standards and other regulations as may be necessary for the regulation of facilities which provide care for fewer than five children. If the standards so adopted are less restrictive than the standards for the licensure of child care facilities which have been adopted by the Board, the governing body shall not issue a license to the smaller facilities, but may register them in accordance with the standards which are less restrictive.

4. If a governing body intends to amend or repeal an ordinance providing for the licensing of child care facilities and the effect of that action will be the discontinuance of the governing body's licensure of child care facilities, the governing body shall notify the Bureau of its intention to do so at least 12 months before the amendment or repeal becomes effective.

5. *A child care institution must be licensed by the Bureau.*

Sec. 10. NRS 432A.180 is hereby amended to read as follows:

432A.180 1. Any authorized member or employee of the Bureau may enter and inspect any building or premises of a child care facility or the area of operation of an outdoor youth program at any time to secure compliance with or prevent a violation of any provision of this chapter.

2. The State Fire Marshal or his designate shall, at least annually:

(a) Enter and inspect every building or premises of a child care facility, on behalf of the Bureau; and

(b) Observe and make recommendations regarding the drills conducted pursuant to NRS 432A.077,

↳ to secure compliance with standards for safety from fire and other emergencies.

3. The State Health Officer or his designate shall enter and inspect at least annually, every building or premises of a child care facility and area of operation of an outdoor youth program, on behalf of the Bureau, to secure compliance with standards for health and sanitation.

4. *The annual inspection of any child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court must include, without limitation, an inspection of all areas where food is prepared and served, bathrooms, areas used for sleeping, common*

areas and areas located outdoors that are used by children at the child care facility. The State Health Officer shall publish reports of the inspections and make them available for public inspection upon request.

Sec. 11. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, **and section 6 of this act** is guilty of a misdemeanor.

Sec. 12. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall ensure that each employee who comes into direct contact with children who are in custody receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;**
- (b) Policies and procedures concerning the use of force and restraint on children;**
- (c) The rights of children in the institution or agency;**
- (d) Suicide awareness and prevention;**
- (e) The administration of medication to children;**
- (f) Applicable state and federal constitutional and statutory rights of children in the institution or agency;**
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the institution or agency; and**
- (h) Such other matters as required by the Division of Child and Family Services.**

2. The Division of Child and Family Services shall adopt regulations necessary to carry out the provisions of this section.

Sec. 13. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The superintendent of a facility shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;**
- (b) Policies and procedures concerning the use of force and restraint on children;**
- (c) The rights of children in the facility;**
- (d) Suicide awareness and prevention;**
- (e) The administration of medication to children;**
- (f) Applicable state and federal constitutional and statutory rights of children in the home;**

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and

(h) Such other matters as required by the Administrator of the Division of Child and Family Services.

2. The Administrator of the Division of Child and Family Services shall provide direction to the superintendent of each facility concerning the manner in which to carry out the provisions of this section.

Sec. 14. Chapter 433B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall ensure that each employee who comes into direct contact with children at any treatment facility and any other division facility into which a child may be committed by a court order receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the emergency shelter;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the emergency shelter;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the emergency shelter; and

(h) Such other matters as required by the Board.

2. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 15. NRS 444.330 is hereby amended to read as follows:

444.330 1. The Health Division has supervision over the sanitation, healthfulness, cleanliness and safety, as it pertains to the foregoing matters, of the following state institutions:

(a) Institutions and facilities of the Department of Corrections.

(b) Northern Nevada Adult Mental Health Services.

(c) Nevada Youth Training Center, Caliente Youth Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

(d) Nevada System of Higher Education.

2. The State Board of Health may adopt regulations pertaining thereto as are necessary to promote properly the sanitation, healthfulness, cleanliness and, as it pertains to the foregoing matters, the safety of those institutions.

3. The State Health Officer or his authorized agent shall inspect those institutions at least once each calendar year and whenever he deems an inspection necessary to carry out the provisions of this section. *The*

inspection of any state facility for the detention of children that is operated pursuant to title 5 of NRS must include, without limitation, an inspection of all areas where food is prepared and served, bathrooms, areas used for sleeping, common areas and areas located outdoors that are used by children at the facility.

4. The State Health Officer *shall publish reports of the inspections of any state facility for the detention of children that is operated pursuant to title 5 of NRS and* may publish reports of the inspections ~~of~~ *other state institutions.*

5. All persons charged with the duty of maintenance and operation of the institutions named in this section shall operate the institutions in conformity with the regulations adopted by the State Board of Health pursuant to subsection 2.

6. The State Health Officer or his authorized agent may, in carrying out the provisions of this section, enter upon any part of the premises of any of the institutions named in this section over which he has jurisdiction, to determine the sanitary conditions of the institutions and to determine whether the provisions of this section and the regulations of the State Board of Health pertaining thereto are being violated.

Sec. 16. NRS 444.335 is hereby amended to read as follows:

444.335 1. The health authority shall have supervision over the sanitation, healthfulness, cleanliness and safety, as it pertains to the foregoing matters, of the following city, county and private institutions:

(a) Jails, correctional institutions and other institutions performing similar functions ~~of~~, *including, without limitation, any facility for the detention of children;*

(b) Schools; and

(c) School gymnasiums.

2. The State Board of Health shall, with respect to jails, correctional institutions and other institutions performing similar functions, *including, without limitation, any facility for the detention of children,* and may, with respect to the other institutions named in subsection 1, adopt and enforce such regulations as are necessary to promote properly the sanitation, healthfulness, cleanliness and safety, as it pertains to the foregoing matters, of those institutions.

3. The health authority shall inspect those institutions at least once each calendar year and at such other times as, in its discretion, it deems an inspection necessary to carry out the provisions of this section, except that inspections of schools and gymnasiums shall be made at least twice each year, once during each semester. *The inspection of any institution which has physical custody of children pursuant to the order of a court must include, without limitation, an inspection of all areas where food is prepared and served, bathrooms, areas used for sleeping, common areas and areas located outdoors that are used by children at the facility.*

4. A report of the findings of an inspection must be made to the State Health Officer within 20 days following the inspection. The State Health Officer *shall publish the report of the inspection of any facility which has physical custody of children pursuant to the order of a court and* may from time to time, in his discretion, publish the reports of ~~those~~ *the* inspections ~~of other institutions.~~

5. All persons charged with the duty of maintenance and operation of the institutions named in this section shall operate those institutions in conformity with regulations relating to sanitation, healthfulness, cleanliness and safety, as it pertains to the foregoing matters, adopted by the State Board of Health.

6. The health authority may, in carrying out the provisions of this section, enter upon any part of the premises of any of the institutions named in this section over which it has jurisdiction, to determine the sanitary conditions of those places and to determine whether the provisions of this section and the regulations of the State Board of Health pertaining thereto are being violated.

Sec. 17. ~~[Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A medical facility or facility for the dependent which occasionally or regularly has physical custody of children pursuant to the order of a court shall ensure that each employee who comes into direct contact with children in the shelter receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~(a) Controlling the behavior of children;~~
- ~~(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~(c) The rights of children in the facility;~~
- ~~(d) Suicide awareness and prevention;~~
- ~~(e) The administration of medication to children;~~
- ~~(f) Applicable state and federal constitutional and statutory rights of children in the home;~~
- ~~(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~(h) Such other matters as required by the Board.~~

~~2. The Board shall adopt regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 18. ~~[NRS 449.037 is hereby amended to read as follows:~~

~~449.037 1. The Board shall adopt:~~

~~(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, and section 17 of this act and for programs of hospice care.~~

~~(b) Regulations governing the licensing of such facilities and programs.~~

~~(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.~~

~~(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.~~

~~(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive [.] , and section 17 of this act.~~

~~2. The Board shall adopt separate regulations governing the licensing and operation of:~~

~~(a) Facilities for the care of adults during the day; and~~

~~(b) Residential facilities for groups;~~

~~↳ which provide care to persons with Alzheimer's disease.~~

~~3. The Board shall adopt separate regulations for:~~

~~(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.~~

~~(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.~~

~~(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.~~

~~4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well being of each person accommodated in the facility.~~

~~5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.~~

~~6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:~~

~~(a) The ultimate user's physical and mental condition is stable and is following a predictable course.~~

~~(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.~~

~~(c) A written plan of care by a physician or registered nurse has been established that:~~

~~(1) Addresses possession and assistance in the administration of the medication; and~~

~~(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results;~~

~~(d) The prescribed medication is not administered by injection or intravenously;~~

~~(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.~~

~~7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:~~

~~(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility;~~

~~(b) The residents of the facility reside in their own living units which:~~

~~(1) Except as otherwise provided in subsection 8, contain toilet facilities;~~

~~(2) Contain a sleeping area or bedroom; and~~

~~(3) Are shared with another occupant only upon consent of both occupants;~~

~~(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:~~

~~(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;~~

~~(2) The facility is committed to offering high quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;~~

~~(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;~~

~~(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;~~

~~(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;~~

~~(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and~~

~~(7) The facility is operated in such a manner as to foster a culture that provides a high quality environment for the residents, their families, the staff, any volunteers and the community at large.~~

~~8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single family dwelling, if the Health Division finds that:~~

~~(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and~~

~~(b) The exception, if granted, would not:~~

~~(1) Cause substantial detriment to the health or welfare of any resident of the facility;~~

~~(2) Result in more than two residents sharing a toilet facility; or~~

~~(3) Otherwise impair substantially the purpose of that requirement.~~

~~9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:~~

~~(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;~~

~~(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;~~

~~(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and~~

~~(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.~~

~~10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:~~

~~(a) Facilities that only provide a housing and living environment;~~

~~(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and~~

~~(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.~~

~~11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.] (Deleted by amendment.)~~

~~Sec. 19. [NRS 449.060 is hereby amended to read as follows:~~

~~449.060 1. Each license issued pursuant to NRS 449.001 to 449.240, inclusive, and section 17 of this act expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:~~

~~(a) Satisfactorily complied with the provisions of NRS 449.001 to 449.240, inclusive, and section 17 of this act or the standards and regulations adopted by the Board;~~

~~(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or~~

~~(c) Conformed to all applicable local zoning regulations.~~

~~2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a residential facility for intermediate care, a facility for skilled nursing or a residential facility for groups must include, without limitation, a statement that the facility or agency is in compliance with the provisions of NRS 449.173 to 449.188, inclusive.] (Deleted by amendment.)~~

~~Sec. 20. [NRS 449.080 is hereby amended to read as follows:~~

~~449.080 1. If, after investigation, the Health Division finds that the:~~

~~(a) Applicant is in full compliance with the provisions of NRS 449.001 to 449.240, inclusive [;], and section 17 of this act;~~

~~(b) Applicant is in substantial compliance with the standards and regulations adopted by the Board;~~

~~(c) Applicant, if he has undertaken a project for which approval is required pursuant to NRS 439A.100, has obtained the approval of the Director of the Department of Health and Human Services; and~~

~~(d) Facility conforms to the applicable zoning regulations;~~

~~the Health Division shall issue the license to the applicant.~~

~~2. A license applies only to the person to whom it is issued, is valid only for the premises described in the license and is not transferable.] (Deleted by amendment.)~~

~~Sec. 21. [NRS 449.160 is hereby amended to read as follows:~~

~~449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, and section 17 of this act, upon any of the following grounds:~~

~~(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, and section 17 of this act or of any other law of this State or of the standards, rules and regulations adopted thereunder.~~

~~(b) Aiding, abetting or permitting the commission of any illegal act.~~

~~(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.~~

~~(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.~~

~~(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.~~

~~2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:~~

~~(a) Is convicted of violating any of the provisions of NRS 202.470;~~

~~(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or~~

~~(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.~~

~~3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2.~~

~~4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:~~

~~(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and~~

~~(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.} (Deleted by amendment.)~~

~~Sec. 22. [NRS 449.163 is hereby amended to read as follows:~~

~~449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410, 449.001 to 449.240, inclusive, and section 17 of this act, or any condition, standard or regulation adopted by the Board, the Health Division in accordance with the regulations adopted pursuant to NRS 449.165 may:~~

~~(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;~~

~~(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;~~

~~(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and~~

~~(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:~~

~~(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or~~

~~(2) Improvements are made to correct the violation.~~

~~2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:~~

~~(a) Suspend the license of the facility until the administrative penalty is paid; and~~

~~(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.~~

~~3. The Health Division may require any facility that violates any provision of NRS 439B.410, 449.001 to 449.240, inclusive, and section 17 of this act or any condition, standard or regulation adopted by the Board, to make any improvements necessary to correct the violation.~~

~~4. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.] (Deleted by amendment.)~~

~~Sec. 23. [NRS 449.230 is hereby amended to read as follows:~~

~~449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive [.] and section 17 of this act.~~

~~2. The State Fire Marshal or his designee shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:~~

~~(a) Enter and inspect a residential facility for groups; and~~

~~(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,~~

~~to ensure the safety of the residents of the facility in an emergency.~~

~~3. The State Health Officer or his designee shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.~~

~~4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.] (Deleted by amendment.)~~

~~Sec. 24. [NRS 449.235 is hereby amended to read as follows:~~

~~449.235 1. Every medical facility or facility for the dependent may be inspected at any time, with or without notice, as often as is necessary by:~~

~~[1.] (a) The Health Division to ensure compliance with all applicable regulations and standards; and~~

~~[2.] (b) Any person designated by the Aging Services Division of the Department of Health and Human Services to investigate complaints made against the facility.~~

~~2. The Health Division shall inspect, at least annually, any medical facility or facility for the dependent which occasionally or regularly has physical custody of children pursuant to the order of a court. Such an inspection must include, without limitation, an inspection of all areas where food is prepared and served to children, bathrooms, areas used for children to sleep, common areas used by children and areas located outdoors that are used by children at the facility. The Health Division shall publish reports of the inspections and make them available for public inspection upon request.]~~
(Deleted by amendment.)

Sec. 25. 1. The training required for employees pursuant to sections 1, 6, 12, 13 ~~[, 14 and 17]~~ **and 14** must be provided to all employees holding positions on October 1, 2007, by not later than November 1, 2007.

2. A child care institution which must be licensed by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services pursuant to section 9 of this act must obtain such a license by not later than January 1, 2008.

3. The amendatory provisions of sections 10, 15 ~~[, 16 and 24]~~ **and 16** of this act apply to the next inspection conducted pursuant to those sections.

Sec. 26. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2007, for all other purposes.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 513.

Bill read second time.

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

Amendment No. 387.

AN ACT relating to general improvement districts; allowing the board of trustees of a general improvement district to be created or reorganized as either a five-member or seven-member board ~~[,]~~ **under certain circumstances**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes each board of county commissioners to create general improvement districts within the county and to appoint five persons to serve as the first board of trustees of each district. (NRS 318.080) ~~[Section]~~ **Sections 1 and 2** of this bill ~~[authorizes each]~~ **authorize a** board of county commissioners, **in the alternative**, to appoint ~~[either five or]~~ seven persons to ~~[the first]~~ **such a** board of trustees ~~[of each general improvement district]~~, **but provide additionally that no general improvement district**

which is created or reorganized on or after October 1, 2007, may have a board of trustees that consists of seven members unless the board of county commissioners of the county in which the district is located also consists of seven members. Sections ~~2-4~~ 3-5 of this bill amend provisions regarding general improvement districts to account for boards of trustees with either five or seven members.

Existing law authorizes qualified electors of a general improvement district to petition the board of county commissioners for the creation of election areas within the district, each area to be represented by one member of the board of trustees of the district. Under existing law, election areas within a general improvement district may be altered or abolished in the same manner in which they are created. (NRS 318.0952) Section ~~5~~ 6 of this bill **clarifies that the petition process may be used to reorganize as well as to create election areas. Section 6** requires the election areas specified in the petition to provide, to the extent practicable, proportional representation for the residents of each election area and requires each board of county commissioners, when determining whether the creation of the election areas is desirable, to consider whether the areas provide such proportional representation. Section ~~5~~ 6 also requires the petition to specify which two of the election areas will be represented by two members of the board of trustees instead of one, which occurs when the board consists of seven members and there are five election areas, and provides for the election of trustees from areas that will be represented by two members of the board.

Existing law, under certain circumstances, allows the board of county commissioners of a county to serve ex officio as the board of trustees of a general improvement district. However, existing law prohibits such an arrangement if the district exercises other than certain enumerated powers. (NRS 318.0953) Section 7 of this bill provides that, in a county of any size, the board of county commissioners of the county may serve ex officio as the board of trustees of a general improvement district organized on or after October 1, 2007, regardless of which basic powers the district exercises.

Under existing law, a general improvement district is authorized to borrow money and issue short-term indicia of debt upon the affirmative vote of four trustees. (NRS 318.280) Section ~~6~~ 8 of this bill changes the voting requirement to a majority plus one additional trustee, thus preserving the voting requirement for five-member boards, and similarly requiring seven-member boards to approve such actions by greater than a simple majority.

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

Section 1. Chapter 318 of NRS is hereby amended by adding thereto a new section to read as follows:

If a district is created or reorganized on or after October 1, 2007, the board of trustees of the district must not consist of seven members unless

the board of county commissioners of the county in which the district is located consists of seven members.

~~{Section 1}~~ **Sec. 2.** NRS 318.080 is hereby amended to read as follows:

318.080 1. After adopting an ordinance creating a district and before appointing the first board of trustees for the district, the board of county commissioners is, ex officio, the board of trustees for the district.

2. While acting as the board of trustees, the board of county commissioners shall establish:

- (a) Accounting practices and procedures for the district;
- (b) Auditing practices and procedures to be used by the district;
- (c) A budget for the district; and
- (d) Management standards for the district.

3. Except as otherwise provided in NRS 318.0953 and 318.09533, **and section 1 of this act,** after the board of county commissioners has performed the duties required by subsection 2, it shall appoint five ***or seven*** persons to serve as the first board of trustees of the district and shall specify therein the terms of office to the first Monday in January next following the respective election dates provided in NRS 318.095. Except as otherwise provided in subsection 5, these persons must be qualified electors of the district.

4. The members of the board of trustees shall qualify by filing with the county clerk their oaths of office and corporate surety bonds, at the expense of the district, the bonds to be in an amount not more than \$10,000 each, the form and exact amount thereof to be approved and determined, respectively, by the board of county commissioners, conditioned for the faithful performance of their duties as trustees. The board of county commissioners may from time to time, upon good cause shown, increase or decrease the amount of the bond.

5. The board of county commissioners may appoint as one of the ~~{five}~~ initial trustees as provided by subsection 1 the district attorney for the county or a deputy district attorney on his staff. Such appointee need not be a qualified elector of the district, but no such attorney is qualified for appointment to fill any vacancy on the board pursuant to NRS 318.090 or qualified as a candidate for election to the board at any biennial election pursuant to NRS 318.095 unless he is a qualified elector of the district.

6. The board of county commissioners of the county vested with jurisdiction pursuant to NRS 318.050 may remove any trustee serving on an appointed or elected board of trustees for cause shown, on petition, hearing and notice thereof by publication and by mail addressed to the trustee.

~~{Sec. 2}~~ **Sec. 3.** NRS 318.090 is hereby amended to read as follows:

318.090 Except as otherwise provided in NRS 318.0953 and 318.09533:

1. The board shall, by resolution, designate the place where the office or principal place of the district is to be located, which must be within the corporate limits of the district, and which may be changed by resolution of the board. Copies of all those resolutions must be filed with the county clerk

or clerks of the county or counties wherein the district is located within 5 days after their adoption. The official records and files of the district must be kept at that office and must be open to public inspection as provided in NRS 239.010.

2. The board of trustees shall meet regularly at least once each year, and at such other times at the office or principal place of the district as provided in the bylaws.

3. Special meetings may be held on notice to each member of the board as often as, and at such places within the district as, the needs of the district require.

4. ~~{Three}~~ *A majority of the* members of the board ~~{constitute}~~ *constitutes* a quorum at any meeting.

5. A vacancy on the board must be filled by a qualified elector of the district chosen by the remaining members of the board, the appointee to act until a successor in office qualifies as provided in NRS 318.080 on or after the first Monday in January next following the next biennial election, held in accordance with NRS 318.095, at which election the vacancy must be filled by election if the term of office extends beyond that first Monday in January. Nominations of qualified electors of the district as candidates to fill unexpired terms of 2 years may be made the same as nominations for regular terms of 4 years, as provided in NRS 318.095. If the board fails, neglects or refuses to fill any vacancy within 30 days after the vacancy occurs, the board of county commissioners shall fill that vacancy.

6. Each term of office of 4 years terminates on the first Monday in January next following the general election at which a successor in office is elected, as provided in NRS 318.095. The successor's term of office commences then or as soon thereafter as the successor qualifies as provided in NRS 318.080, subject to the provisions in this chapter for initial appointments to a board, for appointments to fill vacancies of unexpired terms, and for the reorganizations of districts under this chapter which were organized under other chapters of NRS.

~~{Sec. 3.}~~ **Sec. 4.** NRS 318.095 is hereby amended to read as follows:

318.095 Except as otherwise provided in NRS 318.0953:

1. There must be held simultaneously with the first general election in the county after the creation of the district and simultaneously with every general election thereafter an election to be known as the biennial election of the district. The election must be conducted under the supervision of the county clerk or registrar of voters. A district shall reimburse the county clerk or registrar of voters for the costs he incurred in conducting the election for the district.

2. The office of trustee is a nonpartisan office. The general election laws of this State govern the candidacy, nominations and election of a member of the board. The names of the candidates for trustee of a district may be placed on the ballot for the primary or general election.

3. ~~{At}~~ *If a board of trustees consists of five members, at the first biennial election in any district organized or reorganized and operating under this chapter, and each fourth year thereafter, there must be elected by the qualified electors of the district two qualified electors as members of the board of trustees to serve for terms of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected three qualified electors as members of the board of trustees to serve for terms of 4 years.*

4. *If a board of trustees consists of seven members, at the first biennial election in any district organized or reorganized and operating under this chapter, and each fourth year thereafter, there must be elected by the qualified electors of the district three qualified electors as members of the board of trustees to serve for terms of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected four qualified electors as members of the board of trustees to serve for terms of 4 years.*

5. The secretary of the district shall give notice of election by publication, and shall arrange such other details in connection therewith as the county clerk or registrar of voters may direct.

~~{S-}~~ 6. Any new member of the board must qualify in the same manner as members of the first board qualify.

~~{Sec-4}~~ *Sec. 5.* NRS 318.0951 is hereby amended to read as follows:
318.0951 Except as otherwise provided in NRS 318.0952 or 318.0953:

1. Each trustee elected at any biennial election must be chosen by a plurality of the qualified electors of the district voting on the candidates for the vacancies to be filled.

2. If there are two regular terms which end on the first Monday in January next following the biennial election, the two qualified electors receiving the highest and next highest number of votes must be elected. If there are three regular terms so ending, the three qualified electors receiving the highest, next highest and third highest number of votes must be elected. *If there are four regular terms so ending, the four qualified electors receiving the highest, next highest, third highest and fourth highest number of votes must be elected.*

3. If there is a vacancy in an unexpired regular term to be filled at the biennial election, as provided in subsection 5 of NRS 318.090, the candidate who receives the highest number of votes, after there are chosen the successful candidates to fill the vacancies in expired regular terms as provided in subsection 2, must be elected.

~~{Sec-5}~~ *Sec. 6.* NRS 318.0952 is hereby amended to read as follows:
318.0952 Except as otherwise provided in NRS 318.0953 ~~{-}~~ **and section**

1 of this act:

1. Trustees may be elected in the alternate manner provided in this section from election areas within the district.

2. Within 30 days before May 1 of any year in which a general election is to be held in the State, 10 percent or more of the qualified electors of the district voting at the next preceding biennial election of the district may file a written petition with the board of county commissioners of the county vested with jurisdiction under NRS 318.050 praying for the creation or reorganization of election areas within the district in the manner provided in this section. The petition must specify with particularity ~~the~~ *either five or seven election areas proposed to be created ~~in~~ or into which the district is proposed to be reorganized.* The description of the proposed election areas need not be given by metes and bounds or by legal subdivisions, but must be sufficient to enable a person to ascertain what territory is proposed to be included within a particular area. *To the extent practicable, the five or seven election areas so specified must provide for the proportional representation of the residents of each election area. If the board consists of seven members and the petition specifies five areas proposed to be created ~~in~~ or into which the district is proposed to be reorganized, the petition must designate two areas that each will be represented by two trustees.* The signatures to the petition need not all be appended to one paper, but each signer must add to his name his place of residence, giving the street and number whenever practicable. One of the signers of each paper shall take an oath, before a person competent to administer oaths, that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

3. Immediately after the receipt of the petition, the board of county commissioners shall fix a date for a public hearing to be held during the month of May, and shall give notice thereof by publication at least once in a newspaper published in the county ~~in~~ or, if no such newspaper is published therein, then in a newspaper published in the State of Nevada and having a general circulation in the county. The costs of publication of that notice are a proper charge against the district fund.

4. If, as a result of the public hearing, the board of county commissioners finds that the creation or reorganization of election areas within the district is desirable, the board of county commissioners shall, by resolution regularly adopted before June 1, divide the district into the areas specified in the petition, designate them by number and define their boundaries. *In determining whether the creation or reorganization of the election areas specified in the petition is desirable, the board of county commissioners shall consider whether the election areas specified provide for the proportional representation of the residents of each election area.* The territory comprising each election area must be contiguous. ~~One~~

5. *Trustees must be elected from each election area as follows:*

(a) *If the board consists of five members and five election areas are designated, or if the board consists of seven members and seven election areas are designated, one trustee must be elected from each election area by*

a majority of the qualified electors voting on the candidates for any vacancy for that area, as provided in subsection ~~{7-}~~ 8; and

(b) If the board consists of seven members and five election areas are designated:

(1) From each of the two election areas designated pursuant to subsection 2 as being represented by two trustees, the two qualified electors receiving the highest and next highest number of votes from the qualified electors voting on the candidates for any vacancy for that area, as provided in subsection 8, must be elected; and

(2) From each of the three election areas not designated as being represented by two trustees, one trustee must be elected by a majority of the qualified electors voting on the candidates for any vacancy for that area, as provided in subsection 8.

~~{5-}~~ 6. Before June 1 and immediately following the adoption of the resolution creating or reorganizing election areas within a district, the clerk of the board of county commissioners shall transmit a certified copy of the resolution to the secretary of the district.

~~{6-}~~ 7. Upon the creation or reorganization of election areas within a district, the terms of office of all trustees then in office expire on the first Monday of January thereafter next following a biennial election. At the biennial election held following the creation or reorganization of election areas within a district, district trustees to represent the odd-numbered election areas must be elected for terms of 4 years and district trustees to represent the even-numbered election areas must be elected for terms of 2 years. Thereafter, at each biennial election, the offices of trustees must be filled for terms of 4 years in the order in which the terms of office expire.

~~{7-}~~ 8. Candidates for election as a trustee representing any election area must be elected only by those qualified electors of the district residing in that area. No qualified elector may vote in more than one election area at any one time.

~~{8-}~~ 9. A candidate for the office of trustee of a district in which election areas have been created must be a qualified elector of the district and must be a resident of the election area which he seeks to represent.

~~{9-}~~ 10. Election areas may be altered or abolished in the same manner as provided in this section for the creation or reorganization of election areas and the election of trustees therefor.

Sec. 7. 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 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 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 district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing emergency medical services as provided in NRS 318.1185, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

4. **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 October 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. 6.~~ **Sec. 8.** NRS 318.280 is hereby amended to read as follows:
 318.280 1. A district, upon the affirmative vote of ~~four~~ **a majority of the** trustees, **plus one additional trustee,** is authorized to borrow money

without an election in anticipation of the collection of taxes or other revenues , ~~{}~~ but excluding special assessments , ~~{}~~ and to issue short-term notes, warrants and interim debentures to evidence the amount so borrowed.

2. Such short-term notes, warrants and interim debentures:

(a) Shall be payable from the fund for which the money was borrowed.

(b) Shall mature before the close of the fiscal year in which the money is so borrowed, except for interim debentures.

(c) Shall not be extended or funded except in compliance with the Local Government Securities Law.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed 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. 517.

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.

Section 2 of this bill authorizes the City Council to ~~appoint~~ **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.

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.

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 identification card.

Section 10 of this bill provides that the City Council has such other powers as are conferred generally upon the governing bodies of other cities.

Section 11 of this bill authorizes the Director of Financial Management of the City to serve as the City Treasurer.

Section 12 of this bill removes the requirement that the Director of Public Services be a licensed professional engineer.

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 Master Judge must be selected from each Department on a rotating basis, beginning with Department 1.

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.

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 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.

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, each Councilman must appoint a member.~~ 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 ~~the Councilman~~ he represents;
- (b) Is not a member of the ~~Councilman's household;~~ household of the Councilman who represents that ward;
- (c) Is not related ~~to the Councilman~~ by blood, adoption or marriage within the third degree of consanguinity or affinity ~~to~~ to the Councilman who represents that ward; and
- (d) Does not have a substantial and continuing business relationship with ~~the Councilman or~~ either the City ~~or~~ 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; ~~by the seven Councilmen;~~

- (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.

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 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.*

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. ~~Upon authorization by the City Council, the Municipal Judges,~~ 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.

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 ~~electe~~ 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 administrative body that the City Council has designated to hear such appeals.***

Sec. 10. Section 2.350 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1406, is hereby amended to read as follows:

Sec. 2.350 Powers of City Council: General. The City Council has such other powers, which are not in conflict with the express or implied provisions of this Charter, as are conferred generally by statute upon the governing bodies of ***other*** cities ~~{which are}~~, ***whether*** organized under ***general law or under*** special charters.

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 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~~ **Beginning on July 1, 2007, and at the beginning of each fiscal year thereafter, a** Master Judge must be chosen from among ~~them by the City Council.~~ **the six departments. The Master Judge must be selected from a different department each year, beginning with Department 1, and thereafter, from the next department in numerical order. If a Municipal Judge so selected declines to take the position of Master Judge, the Municipal Judge from the next department in numerical order must be selected for the position.** 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. 13.]~~ **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. 14.}~~ *Sec. 15.* This act becomes effective on July 1, 2007.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 525.

Bill read second time.

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

Amendment No. 477.

“SUMMARY—Revises provisions relating to autism. (BDR 40-1374)”

“AN ACT relating to health care; requiring the Health Division of the Department of Health and Human Services to develop a program of public education relating to autism; ~~{prescribing a designation for inclusion on a driver's license or identification card for tissue donations for research relating to autism.}~~ making appropriations; and providing other matters properly relating thereto.”

Legislative Counsel's Digest:

Sections 2-4 of this bill encourage screening for the detection of autism in children and require the Health Division of the Department of Health and Human Services to develop and carry out a public awareness campaign relating to autism.

~~{ Existing law requires the Department of Motor Vehicles to allow the holder of a driver's license or identification card the opportunity to indicate on his license or card that he wishes to be an organ donor. (NRS 483.340, 483.840) Sections 5 and 6 of this bill require the Department to give the holder of the license or card the opportunity to be a tissue donor for research relating to autism. }~~

Section 7 of this bill makes an appropriation for use by ~~{the Lili Claire Foundation, Inc.,}~~ **an organization chosen by the Department of Health and Human Services** which provides services **without charge** to families of children with autism.

Section 8 of this bill makes an appropriation to the Department of Health and Human Services to provide a monthly allocation for certain families of children with autism to pay costs associated with certain programs that provide treatment for children with autism.

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto 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, “autism” means a spectrum disorder which significantly affects the verbal and nonverbal communication and social skills of a person and which is often characterized by repetitive activities and stereotyped movements, resistance to changes in environment or daily routine and response to sensory experiences in an unusual manner. The term includes, without limitation, a group of ~~developmental~~ neurodevelopmental disorders such as autistic disorder, ~~Asperger’s~~ Asperger’s syndrome, atypical autism, pervasive developmental disorder and other neurodevelopmental disorders that share the characteristics described in this section.*

Sec. 3. *The Health Division shall encourage providers of health care or other services who are providing services to a child to:*

1. *Recommend that the parent or legal guardian of the child, on or before the child reaches 18 months of age, if practicable, complete the checklist for the detection of autism in toddlers; and*

2. *Perform a screening of the child, on or before the child reaches 18 months of age, if practicable, for the detection of autism.*

Sec. 4. 1. *The Health Division shall develop and carry out a program of public education and awareness relating to autism. The program must:*

(a) *Include a description of autism and the spectrums of autism;*

(b) *Include information for parents and legal guardians of children concerning the importance of screening children for the detection of autism on or before the age of 18 months;*

(c) *Encourage providers of health care or other services who are providing services to children to carry out section 3 of this act;*

(d) *Include the checklist for the detection of autism in toddlers and any other information which may assist parents and legal guardians in the detection of autism in children;*

(e) *Provide access to and information concerning continuing education credits relating to autism for providers of health care and other services who wish to obtain such credit ~~++~~ from the appropriate licensing boards;*

(f) *Identify available resources, services and programs for persons with autism and parents of children with autism, including, without limitation, contact information for those resources, services and programs; and*

(g) *Other information relating to autism as determined necessary by the Health Division.*

2. *The Health Division shall ensure that the information required by subsection 1:*

(a) *Is presented in written materials prepared by the Health Division, including, without limitation, brochures that use terms which are easily understandable;*

(b) Is presented on an Internet website maintained by the Health Division, including, without limitation, direct access via the website to the checklist for the detection of autism in toddlers; and

(c) Is made available to child care facilities, public schools, licensed hospitals in this State that provide services for maternity care and the care of newborn children, licensed obstetric centers, providers of health care or other services who are providing services to children and is otherwise made available to the general public.

Sec. 5. ~~NRS 483.340 is hereby amended to read as follows:~~

~~483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.~~

~~2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.~~

~~3. Information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.~~

~~4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.~~

~~5. At the time of the issuance or renewal of the driver's license, the Department shall:~~

~~(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS~~

~~451.500 to 451.590, inclusive, to be a donor of tissue for research relating to autism or to refuse to make an anatomical gift of his body or part of his body.~~

~~(b) Give the holder the opportunity to have indicated whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.~~

~~(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts [.] and donations of tissue, including the procedure for registering as a donor with the organ donor registry or tissue donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with an organization which registers as donors persons who desire to make anatomical gifts [.] and an organization which registers as donors persons who desire to make donations of tissue for research relating to autism.~~

~~(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.~~

~~6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.~~

~~7. The Department shall submit to the organ donor registry or tissue donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift [.] or a donation of tissue for research relating to autism. The Department shall adopt regulations to carry out the provisions of this subsection.] (Deleted by amendment.)~~

~~Sec. 6. [NRS 483.840 is hereby amended to read as follows:~~

~~483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.~~

~~2. Identification cards do not authorize the operation of any motor vehicles.~~

~~3. Identification cards must include the following information concerning the holder:~~

~~(a) The name and sample signature of the holder.~~

~~(b) A unique identification number assigned to the holder that is not based on the holder's social security number.~~

~~(c) A personal description of the holder.~~

~~(d) The date of birth of the holder.~~

~~(e) The current address of the holder in this State.~~

~~(f) A colored photograph of the holder.~~

~~4. The information required to be included on the identification card pursuant to subsection 3 must be placed on the card in the manner specified in subsection 1 of NRS 483.347.~~

~~5. At the time of the issuance or renewal of the identification card, the Department shall:~~

~~(a) Give the holder the opportunity to have indicated on his identification card that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.590, inclusive, to be a donor of tissue for research relating to autism or to refuse to make an anatomical gift of his body or part of his body.~~

~~(b) Give the holder the opportunity to indicate whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.~~

~~(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts [,] and donations of tissue, including the procedure for registering as a donor with the organ donor registry or tissue donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with an organization which registers as donors persons who desire to make anatomical gifts [,] and an organization which registers as donors persons who desire to make donations of tissue for research relating to autism.~~

~~(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his identification card.~~

~~6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.~~

~~7. The Department shall submit to the organ donor registry or tissue donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift [,] or a donation of tissue for research relating to autism. The Department shall adopt regulations to carry out the provisions of this subsection.~~

~~8. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.) (Deleted by amendment.)~~

Sec. 7. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services, the sum of \$1,200,000 to assist ~~{the Lili Claire Foundation, Inc.,}~~ **an organization chosen by the Department that provides services without charge to families of children with autism** in accordance with this section. **Such an organization must use diagnostic practices based on scientific evidence and use a multidisciplinary team to conduct evaluations.**

2. The Department ~~{of Health and Human Services,}~~ shall distribute the money appropriated by subsection 1 to ~~{the Lili Claire Foundation, Inc.,}~~ **the organization**, if the ~~{Foundation}~~ **organization** submits proof satisfactory to the Department that the ~~{Foundation}~~ **organization** has obtained equal

matching money, other than money from this State. The matching money may include, without limitation, money from local governmental agencies, community organizations, the private sector and the Federal Government.

3. ~~Upon receipt of the money pursuant to subsection 2, the Lili Claire Foundation, Inc., shall use the money for:~~

~~(a) The enhancement of the facilities and operations of the Foundation in southern Nevada; and~~

~~(b) The establishment and operation of the Foundation in northern Nevada in collaboration with the Nevada System of Higher Education.~~

The Department shall ensure that the money appropriated to the organization pursuant to subsection 1 is used to provide services to families of children with autism in northern Nevada and southern Nevada.

4. Any remaining balance of the appropriation made by subsection 1 ~~for 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. 8. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services to assist parents and legal guardians in paying the costs for the treatment of children with autism:

For the Fiscal Year 2007-2008	(\$2,600,000)	\$2,000,000
For the Fiscal Year 2008-2009	(\$2,600,000)	\$3,200,000

2. The parent or legal guardian of a child with autism may apply to the Department of Health and Human Services, through the Office of Disability Services, for a grant of money appropriated by subsection 1 to assist in paying the cost for the child to participate in a program for the treatment of autism. The application must be on a form prescribed by the Department. The Department shall provide monthly allocations to the parent or legal guardian of a child with autism whose application is approved. The money must be used to assist in paying the cost of a program of treatment which has proven effective through evidence and research in assisting children with autism. If a sufficient amount of money is not available to pay the total amount requested in each approved application, the Department shall allocate the money equitably among parents and legal guardians whose applications are approved.

3. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated

money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 9. This act becomes effective on July 1, 2007.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 527.

Bill read second time.

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

Amendment No. 428.

SUMMARY—Revises provisions ~~governing the planning for and funding of redevelopment and affordable housing~~ relating to governmental entities. (BDR ~~20~~ 32-143)

AN ACT relating to governmental entities; ~~eliminating the regional planning coalition required for certain larger counties; requiring the establishment of a regional planning commission for those larger counties; authorizing local governments to enact certain ordinances relating to affordable and attainable housing; revising various provisions concerning financial administration of redevelopment agencies;~~ authorizing certain governmental entities **and businesses** to appeal certain decisions concerning appraisals conducted by a county assessor; **expanding the matters that must be considered in connection with the infrastructure required to support certain projects;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~f Existing law establishes a regional planning coalition for counties whose population is 400,000 or more (currently Clark County). (NRS 278.02507-278.02598) Existing law establishes a regional planning commission for counties whose population is 100,000 or more but less than 400,000 (currently Washoe County). (NRS 278.026-278.029) Sections 2-5 and 15 of this bill eliminate the current regional planning coalition and provide that counties whose population is 400,000 or more (currently Clark County) will be governed by a regional planning commission that operates and functions in the same manner as the regional planning commission currently established for counties whose population is 100,000 or more but less than 400,000 (currently Washoe County).~~

~~Section 1 of this bill expands the provisions authorizing local governments to enact ordinances for the development of affordable housing to further authorize the enactment of ordinances for the acquisition, construction,~~

~~improvement, rehabilitation or expansion of affordable and attainable housing. (NRS 244.189)~~

Section 8 of this bill authorizes certain ~~persons and~~ entities aggrieved by the actions of a county assessor to appeal to the Nevada Tax Commission. Section 12 of this bill authorizes a governmental entity that believes it has been adversely affected by an incorrect appraisal conducted by a county assessor to apply to the county assessor for reconsideration of the appraisal. If the county assessor grants the application for reconsideration, the county assessor must report the results of his reconsideration to the governmental entity that submitted the application. ~~Existing law requires a redevelopment agency in a city whose population is 300,000 or more (currently Las Vegas) to set aside revenue for low income housing. (NRS 279.685) Section 7 of this bill expands the applicability of this existing law by lowering the population threshold for such cities from 300,000 to 150,000 (currently Henderson, Reno and Las Vegas).~~

Existing law provides that a “tentative map” is a map made to show the design of a proposed subdivision and the existing conditions in and around it. (NRS 278.019) Under existing law, the governing body of a local government, or the planning commission if it is authorized to take final action, is required to consider certain issues and factors when it determines whether to approve, conditionally approve or disapprove a tentative map. (NRS 278.015, 278.349) Section 16 of this bill expands the matters that must be considered in connection with the infrastructure required to support certain projects.

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

Section 1. [NRS 244.189 is hereby amended to read as follows:

244.189 1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, a board of county commissioners may exercise such powers and enact such ordinances, not in conflict with the provisions of NRS or other laws or regulations of this State, as the board determines are necessary and proper for:

- (a) The ~~acquisition, construction, development, improvement, rehabilitation or expansion~~ of affordable ~~and attainable~~ housing;
- (b) The control and protection of animals;
- (c) The rehabilitation of rental property in residential neighborhoods; and
- (d) The rehabilitation of abandoned residential property.

2. The board of county commissioners shall not impose or increase a tax unless the tax or increase is otherwise authorized by specific statute.

3. The board of county commissioners may, in lieu of a criminal penalty, provide a civil penalty for a violation of an ordinance enacted pursuant to this section unless state law provides a criminal penalty for the same act or omission.] **(Deleted by amendment.)**

Sec. 2. [NRS 278.0261 is hereby amended to read as follows:

278.0261 The Legislature hereby finds and declares that:

1. The process of regional planning in a county whose population is 100,000 or more, ~~but less than 400,000,~~ as set forth in NRS 278.026 to 278.029, inclusive, ensures that comprehensive planning will be carried out with respect to population, conservation, land use and transportation, public facilities and services, annexation and intergovernmental coordination.

2. The process of regional planning set forth in NRS 278.026 to 278.029, inclusive, does not specifically limit the premature expansion of development into undeveloped areas or address the unique needs and opportunities that are characteristic of older neighborhoods in a county whose population is 100,000 or more, ~~but less than 400,000.~~

3. The problem of the premature expansion of development into undeveloped areas and the unique needs and opportunities that are characteristic of older neighborhoods may be addressed through:

(a) Cooperative efforts to preserve and revitalize urban areas and older neighborhoods; and

(b) Review of the master plans, facilities plans and other similar plans of local governments and other affected entities.

4. It is the intent of the Legislature with respect to NRS 278.026 to 278.029, inclusive, that each local government and affected entity shall exercise its powers and duties in a manner that is in harmony with the powers and duties exercised by other local governments and affected entities to enhance the long-term health and welfare of the county and all its residents.] (Deleted by amendment.)

Sec. 3. [NRS 278.0262 is hereby amended to read as follows:

278.0262 1. There is hereby created in each county whose population is 100,000 or more, ~~but less than 400,000,~~ a regional planning commission consisting of:

(a) Three members from the local planning commission of each city in the county whose population is 60,000 or more, appointed by the respective governing bodies of those cities;

(b) One member from the local planning commission of each city in the county whose population is less than 60,000, appointed by the respective governing bodies of those cities; and

(c) Three members from the local planning commission of the county, appointed by the governing body of the county, at least two of whom must reside in unincorporated areas of the county.

2. Except for the terms of the initial members of the commission, the term of each member is 3 years and until the selection and qualification of his successor. A member may be reappointed. A member who ceases to be a member of the local planning commission of the jurisdiction from which he is appointed automatically ceases to be a member of the commission. A vacancy must be filled for the unexpired term by the governing body which made the original appointment.

3. The commission shall elect its chairman from among its members. The term of the chairman is 1 year. The member elected chairman must have been appointed by the governing body of the county or a city whose population is 60,000 or more, as determined pursuant to a schedule adopted by the commission and made a part of its bylaws which provides for the annual rotation of the chairmanship among each of those governing bodies.

4. A member of the commission must be compensated at the rate of \$80 per meeting or \$400 per month, whichever is less.

5. Each member of the commission must successfully complete the course of training prescribed by the governing body pursuant to subsection 2 of NRS 278.0265 within 1 year after the date on which his term of appointment commences. A member who fails to complete successfully the course of training as required pursuant to this subsection forfeits his appointment 1 year after the date on which his term of appointment commenced.] **(Deleted by amendment.)**

Sec. 4. [NRS 278.0264 is hereby amended to read as follows:

278.0264 1. There is hereby created in each county whose population is 100,000 or more ~~[but less than 400,000,]~~ a governing board for regional planning consisting of:

(a) Three representatives appointed by the board of county commissioners, at least two of whom must represent or reside within unincorporated areas of the county. If the representative is:

(1) A county commissioner, his district must be one of the two districts in the county with the highest percentage of unincorporated area.

(2) Not a county commissioner, he must reside within an unincorporated area of the county.

(b) Four representatives appointed by the governing body of the largest incorporated city in the county.

(c) Three representatives appointed by the governing body of every other incorporated city in the county whose population is 60,000 or more.

(d) One representative appointed by the governing body of each incorporated city in the county whose population is less than 60,000.

2. Except for the terms of the initial members of the governing board, the term of each member is 3 years and until the selection and qualification of his successor. A member may be reappointed. A vacancy must be filled for the unexpired term by the governing body which made the original appointment.

3. The governing bodies may appoint representatives to the governing board from within their respective memberships. A member of a local governing body who is so appointed and who subsequently ceases to be a member of that body, automatically ceases to be a member of the governing board. The governing body may also appoint alternative representatives who may act in the respective absences of the principal appointees.

4. The governing board shall elect its chairman from among its members. The term of the chairman is 1 year. The member elected chairman must have been appointed by the governing body of the county or a city whose

population is more than 60,000, as determined pursuant to a schedule adopted by the governing board and made a part of its bylaws which provides for the annual rotation of the chairmanship among each of those governing bodies.

5. A member of the governing board who is also a member of the governing body which appointed him shall serve without additional compensation. All other members must be compensated at the rate of \$40 per meeting or \$200 per month, whichever is less.

6. The governing board may appoint such employees as it deems necessary for its work and may contract with city planners, engineers, architects and other consultants for such services as it requires.

7. The local governments represented on the governing board shall provide the necessary facilities, equipment, staff, supplies and other usual operating expenses necessary to enable the governing board to carry out its functions. The local governments shall enter into an agreement whereby those costs are shared by the local governments in proportion to the number of members that each appoints to the governing board. The agreement must also contain a provision specifying the responsibility of each local government, respectively, of paying for legal services needed by the governing board or by the regional planning commission.

8. The governing board may sue or be sued in any court of competent jurisdiction.

9. The governing board shall prepare and adopt an annual budget and transmit it as a recommendation for funding to each of the local governments.] **(Deleted by amendment.)**

Sec. 5. [NRS 278.315 is hereby amended to read as follows:

278.315 1. The governing body may provide by ordinance for the granting of variances, special use permits, conditional use permits or other special exceptions by the board of adjustment, the planning commission or a hearing examiner appointed pursuant to NRS 278.262. The governing body may impose this duty entirely on the board, commission or examiner, respectively, or provide for the granting of enumerated categories of variances, special use permits, conditional use permits or special exceptions by the board, commission or examiner.

2. A hearing to consider an application for the granting of a variance, special use permit, conditional use permit or special exception must be held before the board of adjustment, planning commission or hearing examiner within 65 days after the filing of the application, unless a longer time or a different process of review is provided in an agreement entered into pursuant to NRS 278.0201.

3. In a county whose population is less than 100,000, notice setting forth the time, place and purpose of the hearing must be sent at least 10 days before the hearing to:

(a) The applicant;

(b) Each owner of real property, as listed on the county assessor's records, located within 300 feet of the property in question;

(c) If a mobile home park is located within 300 feet of the property in question, each tenant of that mobile home park; and

(d) Any advisory board which has been established for the affected area by the governing body.

4. Except as otherwise provided in subsection 7, in a county whose population is 100,000 or more, a notice setting forth the time, place and purpose of the hearing must be sent at least 10 days before the hearing to:

(a) The applicant;

(b) If the application is for a deviation of at least 10 percent but not more than 30 percent from a standard for development:

(1) Each owner, as listed on the county assessor's records, of real property located within 100 feet of the property in question; and

(2) Each tenant of a mobile home park located within 100 feet of the property in question;

(c) If the application is for a special use permit or a deviation of more than 30 percent from a standard for development:

(1) Each owner, as listed on the county assessor's records, of real property located within 500 feet of the property in question;

(2) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (1); and

(3) Each tenant of a mobile home park located within 500 feet of the property in question;

(d) If the application is for a project of regional significance ~~as that term is described in NRS 278.02542;~~

(1) Each owner, as listed on the county assessor's records, of real property located within 750 feet of the property in question;

(2) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (1); and

(3) Each tenant of a mobile home park located within 750 feet of the property in question; and

(e) Any advisory board which has been established for the affected area by the governing body.

5. If an application is filed with the governing body for the issuance of a special use permit with regard to property situated within an unincorporated town that is located more than 10 miles from an incorporated city, the governing body shall, at least 10 days before the hearing on the application is held pursuant to subsection 2, transmit a copy of any information pertinent to the application to the town board, citizens' advisory council or town advisory board, whichever is applicable, of the unincorporated town. The town board,

citizens' advisory council or town advisory board may make recommendations regarding the application and submit its recommendations before the hearing on the application is held pursuant to subsection 2. The governing body or other authorized person or entity conducting the hearing shall consider any recommendations submitted by the town board, citizens' advisory council or town advisory board regarding the application and, within 10 days after making its decision on the application, shall transmit a copy of its decision to the town board, citizens' advisory council or town advisory board.

6. An applicant or a protestant may appeal a decision of the board of adjustment, planning commission or hearing examiner in accordance with the ordinance adopted pursuant to NRS 278.3195.

7. In a county whose population is 400,000 or more, if the application is for the issuance of a special use permit for an establishment which serves alcoholic beverages for consumption on or off of the premises as its primary business in a district which is not a gaming enterprise district as defined in NRS 463.0158, the governing body shall, at least 10 days before the hearing:

(a) Send a notice setting forth the time, place and purpose of the hearing to:

(1) The applicant;

(2) Each owner, as listed on the county assessor's records, of real property located within 1,500 feet of the property in question;

(3) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (2);

(4) Each tenant of a mobile home park located within 1,500 feet of the property in question; and

(5) Any advisory board which has been established for the affected area by the governing body; and

(b) Erect or cause to be erected on the property, at least one sign not less than 2 feet high and 2 feet wide. The sign must be made of material reasonably calculated to withstand the elements for 40 days. The governing body must be consistent in its use of colors for the background and lettering of the sign. The sign must include the following information:

(1) The existing permitted use and zoning designation of the property in question;

(2) The proposed permitted use of the property in question;

(3) The date, time and place of the public hearing; and

(4) A telephone number which may be used by interested persons to obtain additional information.

8. A sign required pursuant to subsection 7 is for informational purposes only and must be erected regardless of any local ordinance regarding the size, placement or composition of signs to the contrary.

9. A governing body may charge an additional fee for each application for a special use permit to cover the actual costs resulting from the erection

of not more than one sign required by subsection 7, if any. The additional fee is not subject to the limitation imposed by NRS 354.5989.

10. The governing body shall remove or cause to be removed any sign required by subsection 7 within 5 days after the final hearing for the application for which the sign was erected. There must be no additional charge to the applicant for such removal.

11. The notice required to be provided pursuant to subsections 3, 4 and 7 must be sent by mail or, if requested by a party to whom notice must be provided pursuant to those subsections, by electronic means if receipt of such an electronic notice can be verified, and must be written in language which is easy to understand. The notice must set forth the time, place and purpose of the hearing and a physical description or map of the property in question.

12. The provisions of this section do not apply to an application for a conditional use permit filed pursuant to NRS 278.147.] **(Deleted by amendment.)**

Sec. 6. [NRS 278C.250 is hereby amended to read as follows:

278C.250 1. After the effective date of the ordinance adopted pursuant to NRS 278C.220, any taxes levied upon taxable property in the tax increment area each year by or for the benefit of the State, the municipality and any public body must be divided as follows:

(a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the tax increment area as shown upon the last equalized assessment roll used in connection with the taxation of the property by the taxing agency, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid.

(b) Except as otherwise provided in this section, the portion of the taxes levied each year in excess of the amount determined pursuant to paragraph (a) must be allocated to, and when collected must be paid into, the tax increment account pertaining to the undertaking to pay the bond requirements of loans, money advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, incurred by the municipality to finance or refinance, in whole or in part, the undertaking. Unless the total assessed valuation of the taxable property in the tax increment area exceeds the total assessed value of the taxable property in the area as shown by the last equalized assessment roll referred to in this subsection, all of the taxes levied and collected upon the taxable property in the area must be paid into the funds of the respective taxing agencies. When the loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the tax increment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) The amount of the taxes levied each year which are paid into the tax increment account pursuant to paragraph (b) must be limited by the

governing body to an amount not to exceed the combined total amount required for annual debt service of the project or projects acquired, improved or equipped, or any combination thereof, as part of the undertaking.

(d) Any revenues generated within the tax increment district in excess of the amount referenced in paragraph (c), if any, will be paid into the funds of the respective taxing agencies in the same proportion as their base amount was distributed.

2. In any fiscal year, the total revenue paid to a tax increment area in combination with the total revenue paid to any other tax increment areas and any redevelopment agencies of a municipality must not exceed:

(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a municipality whose population is less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

↪ If the revenue paid to a tax increment area must be limited pursuant to paragraph (a) or (b) and the municipality has more than one redevelopment agency or tax increment area, or one of each, the municipality shall determine the allocation to each agency and area. Any revenue that would be allocated to a tax increment area but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. ~~Any revenue required to be allocated and paid to a redevelopment agency of a municipality pursuant to this section must be paid as soon as practicable after the revenue is collected.~~

~~4.~~The portion of the taxes levied each year in excess of the amount determined pursuant to paragraph (a) of subsection 1 which is attributable to any tax rate levied by a taxing agency:

(a) To produce revenue in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the debt service fund of that taxing agency.

(b) In excess of any tax rate of that taxing agency applicable to the last taxation of the property before the effective date of the ordinance, if that additional rate was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.

(c) Pursuant to NRS 387.3285 or 387.3287, if that rate was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.

(d) For the support of the public schools within a county school district pursuant to NRS 387.195, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.

~~{4.}–5.~~ The provisions of paragraph (a) of subsection ~~{3}~~ ~~4~~ include, without limitation, a tax rate approved for bonds of a county school district issued pursuant to NRS 350.020, including, without limitation, amounts necessary for a reserve account in the debt service fund.

~~{5.}–6.~~ As used in this section, the term “last equalized assessment roll” means the assessment roll in existence on the 15th day of March immediately preceding the effective date of the ordinance.] **(Deleted by amendment.)**

Sec. 7. [NRS 279.685 is hereby amended to read as follows:

279.685 1. Except as otherwise provided in this section, an agency of a city whose population is ~~{300,000}~~ ~~150,000~~ or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than 15 percent of that revenue received on or before October 1, 1999, and 18 percent of that revenue received after October 1, 1999, to increase, improve and preserve the number of dwelling units in the community for low-income households.

2. The obligation of an agency to set aside not less than 15 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

4. The agency may expend or otherwise commit money for the purposes of subsection 1 outside the boundaries of the redevelopment area.] **(Deleted by amendment.)**

Sec. 8. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any ~~{natural person,}~~ **partnership, corporation, association or other business or legal entity** ~~{who}~~ **that is aggrieved by an action of a county**

assessor may appeal the action by filing a notice of appeal with the Nevada Tax Commission.

2. The Nevada Tax Commission shall, ~~within 30 days~~ at its next meeting held after receipt of an appeal made pursuant to this section, decide the appeal by taking any of the actions set forth in paragraph (f) of subsection 2 of NRS 360.250.

Sec. 9. NRS 360.250 is hereby amended to read as follows:

360.250 1. The Nevada Tax Commission shall adopt general and uniform regulations governing the assessment of property by the county assessors of the various counties, county boards of equalization, the State Board of Equalization and the Department. The regulations must include, without limitation, standards for the appraisal and reappraisal of land to determine its taxable value.

2. The Nevada Tax Commission may:

(a) Confer with, advise and direct county assessors, sheriffs as ex officio collectors of licenses and all other county officers having to do with the preparation of the assessment roll or collection of taxes or other revenues as to their duties.

(b) Prescribe the form and manner in which assessment rolls or tax lists must be kept by county assessors.

(c) Prescribe the form of the statements of property owners in making returns of their property.

(d) Require county assessors, sheriffs as ex officio collectors of licenses and all other county officers having to do with the preparation of the assessment roll or collection of taxes or other revenues, to furnish such information in relation to assessments, licenses or the equalization of property valuations, and in such form as the Nevada Tax Commission may demand.

(e) Except as otherwise provided in this title, share information in its records with agencies of local governments which are responsible for the collection of debts or obligations if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.

(f) Reverse, affirm or modify any action of a county assessor that is appealed to the Nevada Tax Commission by a taxpayer pursuant to section 8 of this act.

3. Each assessor and any other such officer shall certify under penalty of perjury that in assessing property or furnishing other information required pursuant to this section he has complied with the regulations of the Nevada Tax Commission. This certificate must be appended to each assessment roll and any other information furnished.

4. A county assessor or other county officer whose certificate is knowingly falsified is guilty of a misdemeanor. If the Nevada Tax Commission finds that a county assessor or other county officer has knowingly violated its regulations and thereby has caused less revenue to be collected from taxes, it shall deduct the amount of the undercollection from

the money otherwise payable to the county from the proceeds of the supplemental city-county relief tax.

Sec. 10. Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.

Sec. 11. **1. A local government may request that the county board of equalization reconsider a reduction by the county assessor in the assessed value of taxable property in a redevelopment area.**

2. A local government may appeal any action of the county board of equalization made pursuant to subsection 1 to the State Board of Equalization.

3. The county board of equalization and the State Board of Equalization shall decide any request for reconsideration or appeal made pursuant to this section ~~within 30 days~~ at its next meeting after receipt of the request or appeal.

Sec. 12. **1. A governmental entity that believes it has been adversely affected by an incorrect appraisal conducted by a county assessor may apply to the county assessor for reconsideration of the appraisal.**

2. If a county assessor grants an application for reconsideration submitted pursuant to subsection 1, the county assessor shall report the results of his reconsideration to the governmental entity that submitted the application.

Sec. 13. [NRS 373.146 is hereby amended to read as follows:

373.146 1. In a county whose population is 400,000 or more, the ~~regional transportation~~ commission shall cooperate with the local air pollution control board and the regional planning ~~coalition~~ ~~commission~~ in the county in which it is located to:

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) Establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, a ~~regional transportation~~ commission shall:

(a) Consult with the local air pollution control board and the regional planning ~~coalition~~ ~~commission~~; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional planning ~~coalition~~ ~~commission~~; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional planning ~~[coalition]~~" has the meaning ascribed to it in NRS 278.0172.] ~~commission" means a regional planning commission created pursuant to NRS 278.0262.]~~ **(Deleted by amendment.)**

Sec. 14. [NRS 445B.503 is hereby amended to read as follows:

445B.503 1. In addition to the duties set forth in NRS 445B.500, the local air pollution control board in a county whose population is 400,000 or more shall cooperate with the regional planning ~~[coalition]~~ ~~commission~~ and the regional transportation commission in the county in which it is located to:

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) Establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, a local air pollution control board shall:

(a) Consult with the regional planning ~~[coalition]~~ ~~commission~~ and the regional transportation commission; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the regional planning ~~[coalition]~~ ~~commission~~ and the regional transportation commission; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional planning ~~[coalition]~~" has the meaning ascribed to it in NRS 278.0172.] ~~commission" means a regional planning commission created pursuant to NRS 278.0262.]~~

(c) "Regional transportation commission" means a regional transportation commission created and organized in accordance with chapter 373 of NRS.] **(Deleted by amendment.)**

Sec. 14.5. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,
 ↪ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive; ~~and~~

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands ~~and~~; **and**

(k) If the tentative map is prepared in connection with a project that is proposed to be more than 20 acres but less than 100 acres in size, and that is proposed to be constructed at a density of greater than six dwelling units per acre, the development of such infrastructure as will be necessary to support such a project when it is completed, including, without limitation:

(1) The anticipated needs of the area that will be affected by the project with respect to emergency services, recreational facilities, open space, educational facilities, flood control facilities and regional transportation; and

(2) An estimate of the date on which each phase of the project will be completed,

↪ to the extent that the consideration of such matters does not duplicate the matters required to be considered pursuant to paragraphs (a) to (j), inclusive.

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the

tentative map. Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 15. [NRS 218.2417, 278.0172, 278.02507, 278.02514, 278.02521, 278.02528, 278.02535, 278.02542, 278.02549, 278.02556, 278.02563, 278.0257, 278.02577, 278.02584, 278.02591 and 278.02598 are hereby repealed.] **(Deleted by amendment.)**

~~[LEADLINES OF REPEALED SECTIONS]~~

~~§ 218.2417—Preparation of legislative measures for regional planning coalition by Legislative Counsel and Legal Division of Legislative Counsel Bureau.~~

~~278.0172—“Regional planning coalition” defined.~~

~~278.02507—Applicability.~~

~~278.02514—Regional planning coalition: Establishment.~~

~~278.02521—Legislative intent.~~

~~278.02528—Regional planning coalition to develop comprehensive regional policy plan; consultation; contents of plan; adoption or amendment of plan.~~

~~278.02535—Regional planning coalition: Study and development of incentives for certain types of development.~~

~~278.02542—Powers of regional planning coalition; establishment of definition of term “project of regional significance.”~~

~~278.02549—Certain public entities to submit plans to regional planning coalition for review; certain public entities to ensure consistency of land use plans and decisions with comprehensive regional policy plan and certified plans.~~

~~278.02556—Certain public entities prohibited from adopting or amending certain plans after March 1, 2001, unless regional planning coalition afforded opportunity to make recommendations; exception.~~

~~278.02563—Regional planning coalition to annually prepare, adopt and submit budget to local governments in region.~~

~~278.0257—Regional planning coalition authorized to employ persons and contract for services to carry out certain duties.~~

~~278.02577—Regional planning coalition to biennially review plans of public entities for conformance with comprehensive regional policy plan; procedure if nonconformance exists; determination of substantial conformance; certification; grants.~~

~~278.02584—Regional planning coalition to cooperate with local air pollution control board and regional transportation commission for consistency of action and to carry out program of integrated, long range planning; public hearings; preparation and submission of report.~~

~~278.02591—Analysis by governing body of cost to construct infrastructure in undeveloped area: Establishment; contents; approval; provision to regional planning coalition.~~

~~278.02598—Governing body authorized to negotiate master development agreements to carry out plan for infrastructure.]~~

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 570.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 462.

SUMMARY—Revises certain provisions relating to ~~city government.]~~
elections. (BDR 24-429)

AN ACT relating to ~~cities;]~~ **elections;** revising the date upon which the governing body of a **county or** city is required to conduct a canvass of election returns; ~~providing that the City Attorneys for Reno and Sparks must be appointed rather than elected;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the governing body of a **county or** city to complete a canvass of election returns on or before the fifth working day following an election. (NRS 267.050, **293.387, 293.393, 293C.387** ~~]~~, **309.060, 309.335, 318.118, 539.055, 539.155, 541.360**) Sections ~~[1 and 2]~~ **1-2.7** of this bill amend that requirement to provide that the canvass of the election returns must be completed on or before the sixth working day following an election. Sections 3-5 and 17 of this bill amend the Charters of the Cities of Caliente, Carlin, Elko and Wells in the same manner. **Sections 18-20 of this bill amend the Airport Authority Acts for Battle Mountain, Carson City and Reno-Tahoe in the same manner.**

~~[Existing law requires the City Attorneys of Reno and Sparks to be elected. Sections 6-16 of this bill revise this requirement to require that the City Attorneys be appointed by the City Council of their respective cities instead.]~~

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

Section 1. NRS 293.387 is hereby amended to read as follows:

293.387 1. As soon as the returns from all the precincts and districts in any county have been received by the board of county commissioners, the board shall meet and canvass the returns. The canvass must be completed on or before the ~~fifth~~ **sixth** working day following the election.

2. In making its canvass, the board shall:

- (a) Note separately any clerical errors discovered; and
- (b) Take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.

3. The county clerk shall, as soon as the result is declared, enter upon the records of the board an abstract of the result, which must contain the number of votes cast for each candidate. The board, after making the abstract, shall cause the county clerk to certify the abstract and, by an order made and entered in the minutes of its proceedings, to make:

(a) A copy of the certified abstract; and

(b) A mechanized report of the abstract in compliance with regulations adopted by the Secretary of State,

➔ and transmit them to the Secretary of State not more than 6 working days after the election.

4. The Secretary of State shall, immediately after any primary election, compile the returns for all candidates voted for in more than one county. He shall make out and file in his office an abstract thereof, and shall certify to the county clerk of each county the name of each person nominated, and the name of the office for which he is nominated.

Sec. 1.3. NRS 293.393 is hereby amended to read as follows:

293.393 1. On or before the ~~fifth~~ *sixth* working day after any general election or any other election at which votes are cast for any United States Senator, Representative in Congress, member of the Legislature or any state officer who is elected statewide, the board of county commissioners shall open the returns of votes cast and make abstracts of the votes.

2. Abstracts of votes must be prepared in the manner prescribed by the Secretary of State by regulation.

3. The county clerk shall make out a certificate of election to each of the persons having the highest number of votes for the district, county and township offices.

4. Each certificate must be delivered to the person elected upon application at the office of the county clerk.

~~Section 1.7.~~ **Sec. 1.7.** NRS 293C.387 is hereby amended to read as follows:

293C.387 1. The election returns from a special election, primary city election or general city election must be filed with the city clerk, who shall immediately place the returns in a safe or vault. No person may handle, inspect or in any manner interfere with the returns until they are canvassed by the mayor and the governing body of the city.

2. After the governing body of a city receives the returns from all the precincts and districts in the city, it shall meet with the mayor to canvass the returns. The canvass must be completed on or before the ~~fifth~~ *sixth* working day following the election.

3. In completing the canvass of the returns, the governing body of the city and the mayor shall:

(a) Note separately any clerical errors discovered; and

(b) Take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.

4. After the canvass is completed, the governing body of the city and mayor shall declare the result of the canvass.

5. The city clerk shall enter upon the records of the governing body of the city an abstract of the result. The abstract must be prepared in the manner prescribed by regulations adopted by the Secretary of State and must contain the number of votes cast for each candidate.

6. After the abstract is entered, the:

(a) City clerk shall seal the election returns, maintain them in a vault for at least 22 months and give no person access to them during that period, unless access is ordered by a court of competent jurisdiction or by the governing body of the city.

(b) Governing body of the city shall, by an order made and entered in the minutes of its proceedings, cause the city clerk to:

(1) Certify the abstract;

(2) Make a copy of the certified abstract;

(3) Make a mechanized report of the abstract in compliance with regulations adopted by the Secretary of State;

(4) Transmit a copy of the certified abstract and the mechanized report of the abstract to the Secretary of State within ~~{6}~~ 7 working days after the election; and

(5) Transmit on paper or by electronic means to each public library in the city, or post on a website maintained by the city or the city clerk on the Internet or its successor, if any, a copy of the certified abstract within 30 days after the election.

7. After the abstract of the results from a:

(a) Primary city election has been certified, the city clerk shall certify the name of each person nominated and the name of the office for which he is nominated.

(b) General city election has been certified, the city clerk shall:

(1) Issue under his hand and official seal to each person elected a certificate of election; and

(2) Deliver the certificate to the persons elected upon their application at the office of the city clerk.

8. The officers elected to the governing body of the city qualify and enter upon the discharge of their respective duties on the first regular meeting of that body next succeeding that in which the canvass of returns was made pursuant to subsection 2.

Sec. 2. NRS 267.050 is hereby amended to read as follows:

267.050 Within ~~{5}~~ **6 working** days after the date of the election the legislative authority of the incorporated city shall:

1. Meet and canvass the returns of the election.

2. Declare the result thereof.

3. Issue certificates of election to the 15 qualified electors having the highest vote therefor.

Sec. 2.2. NRS 309.060 is hereby amended to read as follows:

309.060 The board of county commissioners shall meet on ~~the second Monday~~ or before the sixth working day succeeding the election provided for in NRS 309.050 and proceed to canvass the votes and, if upon the canvass it appears that a majority of votes cast were for "Local Improvement District—Yes," the board, by an order entered upon its minutes, shall declare the territory organized as an improvement district under the name and style theretofore designated, and declare the persons receiving respectively the highest number of votes for directors to be elected, and cause a copy of the order and a plat of the district, each certified by the clerk of the board of county commissioners, to be recorded immediately in the office of the county recorder of each county in which any portion of the district is situated, and certified copies thereof must also be recorded with the county clerks of those counties. Thereafter the organization of the district is complete.

Sec. 2.3. NRS 309.335 is hereby amended to read as follows:

309.335 At any regular or special meeting of the board held within ~~5~~ 6 working days following the date of such election, the returns thereof shall be canvassed and the results thereof declared.

Sec. 2.4. NRS 318.118 is hereby amended to read as follows:

318.118 1. In the case of a district created wholly or in part for exterminating and abating mosquitoes, flies, other insects, rats, and liver fluke or *Fasciola hepatica*, the board may:

(a) Take all necessary or proper steps for the extermination of mosquitoes, flies, other insects, rats, or liver fluke or *Fasciola hepatica* in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, other insects, rats, or liver fluke or *Fasciola hepatica* from that territory migrate or are caused to be carried into the district;

(b) Subject to the paramount control of any county or city in which the district has jurisdiction, abate as nuisances all stagnant pools of water and other breeding places for mosquitoes, flies, other insects, rats, or liver fluke or *Fasciola hepatica* in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, other insects, rats, or liver fluke or *Fasciola hepatica* from that territory migrate or are caused to be carried into the district;

(c) If necessary or proper, in the furtherance of the objects of this chapter, build, construct, repair and maintain necessary dikes, levees, cuts, canals or ditches upon any land, and acquire by purchase, condemnation or by other lawful means, in the name of the district, any lands, rights-of-way, easements, property or material necessary for any of those purposes;

(d) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the use or taking of property for dikes, levees, cuts, canals or ditches;

(e) Enter upon without hindrance any lands, within or without the district, for the purpose of inspection to ascertain whether breeding places of mosquitoes, flies, other insects, rats, or liver fluke or *Fasciola hepatica* exist upon those lands;

- (f) Abate public nuisances in accordance with this chapter;
- (g) Ascertain if there has been a compliance with notices to abate the breeding of mosquitoes, flies, other insects, rats, or liver fluke or ***Fasciola hepatica*** upon those lands;
- (h) Treat with oil, other larvicidal material, or other chemicals or other material any breeding places of mosquitoes, flies, other insects, rats, or liver fluke or ***Fasciola hepatica*** upon those lands;
- (i) Sell or lease any land, rights-of-way, easements, property or material acquired by the district; and
- (j) Sell real property pursuant to this subsection to the highest bidder at public auction after 5 days' notice given by publication.

2. In connection with the basic power stated in this section, the district may:

- (a) Levy annually a general ad valorem property tax of not exceeding:

- (1) Fifteen cents on each \$100 of assessed valuation of taxable property;

or

- (2) Twenty cents on each \$100 of assessed valuation of taxable property if the board of county commissioners of each county in which the district is located approves such a tax in excess of 15 cents on each \$100 of assessed valuation of taxable property.

- (b) Levy a tax in addition to a tax authorized in paragraph (a), if the additional tax is authorized by the qualified electors of the district, as provided in subsections 4 to 7, inclusive.

3. The proceeds of any tax levied pursuant to the provisions of this section must be used for purposes pertaining to the basic purpose stated in this section, including, without limitation, the establishment and maintenance of:

- (a) A cash-basis fund of not exceeding in any fiscal year 60 percent of the estimated expenditures for the fiscal year to defray expenses between the beginning of the fiscal year and the respective times tax proceeds are received in the fiscal year; and

- (b) An emergency fund of not exceeding in any fiscal year 25 percent of the estimated expenditures for the fiscal year to defray unusual and unanticipated expenses incurred during epidemics or threatened epidemics from diseases from sources which the district may exterminate or abate.

4. Whenever it appears to the board of a district authorized to exercise the basic power stated in subsection 1 that the amount of money required during an ensuing fiscal year will exceed the amount that can be raised by a levy permitted by paragraph (a) of subsection 2, the board may:

- (a) At a special election or the next primary or general election submit to the qualified electors of the district a question of whether a tax shall be voted for raising the additional money;

- (b) Provide the form of the ballot for the election, which must contain the words "Shall the district vote a tax to raise the additional sum of?" or words equivalent thereto;

(c) Provide the form of the notice of the election and provide for the notice to be given by publication; and

(d) Arrange other details in connection with the election.

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

6. Except as otherwise provided in this chapter:

(a) The secretary of the district shall give notice of the election by publication and shall arrange such other details in connection with the election as the board may direct;

(b) The election board officers shall conduct the election in the manner prescribed by law for the holding of general elections and shall make their returns to the secretary of the district; and

(c) The board shall canvass the returns of the election at any regular or special meeting held within ~~15~~ 6 working days following the date of the election, or at such later time as the returns are available for canvass, and shall declare the results of the election.

7. If a majority of the qualified electors of the district who voted on any proposition authorizing the additional tax voted in favor of the proposition, and the board so declares the result of the election:

(a) The district board shall report the result to the board of county commissioners of the county in which the district is situated, stating the additional amount of money required to be raised. If the district is in more than one county the additional amount must be prorated for each county by the district board in the same way that the district's original total estimate of money is prorated, and the district board shall furnish the board of county commissioners and auditor of each county a written statement of the apportionment for that county; and

(b) The board of county commissioners of each county receiving the written statement shall, at the time of levying county taxes, levy an additional tax upon all the taxable property of the district in the county sufficient to raise the amount apportioned to that county for the district.

8. The district shall not:

(a) Borrow money except for medium-term obligations pursuant to chapter 350 of NRS;

(b) Levy special assessments; or

(c) Fix any rates, fees or other charges except as otherwise provided in this section.

9. The district may determine to cause an owner of any real property to abate any nuisance pertaining to the basic power stated in this section, after a hearing on a proposal for such an abatement and notice thereof by mail addressed to the last known owner or owners of record at his or their last known address or addresses, as ascertained from any source the board deems reliable, or in the absence of the abatement within a reasonable period fixed by the board, to cause the district to abate the nuisance, as follows:

(a) At the hearing the district board shall redetermine whether the owner must abate the nuisance and prevent its recurrence, and shall specify a time within which the work must be completed;

(b) If the nuisance is not abated within the time specified in the notice or at the hearing, the district board shall abate the nuisance by destroying the larvae or pupae, or otherwise, by taking appropriate measures to prevent the recurrence of further breeding;

(c) The cost of abatement must be repaid to the district by the owner;

(d) The money expended by the district in abating a nuisance or preventing its recurrence is a lien upon the property on which the nuisance is abated or its recurrence prevented;

(e) Notice of the lien must be filed and recorded by the district board in the office of the county recorder of the county in which the property is situated within 6 months after the first item of expenditure by the board;

(f) An action to foreclose the lien must be commenced within 6 months after the filing and recording of the notice of lien;

(g) The action must be brought by the district board in the name of the district;

(h) When the property is sold, enough of the proceeds to satisfy the lien and the costs of foreclosure must be paid to the district and the surplus, if any, must be paid to the owner of the property if known, and if not known, must be paid into the court in which the lien was foreclosed for the use of the owner if ascertained; and

(i) The lien provisions of this section do not apply to the property of any county, city, district or other public corporation, except that the governing body of the county, city, district or other public corporation shall repay to any district exercising the basic power stated in subsection 1 the amount expended by the district upon any of its property pursuant to this chapter upon presentation by the district board of a verified claim or bill.

Sec. 2.5. NRS 539.055 is hereby amended to read as follows:

539.055 1. The board of county commissioners shall meet on ~~the second Monday~~ or before the sixth working day succeeding such election and proceed to canvass the votes cast thereat.

2. If upon such canvass it appears that a majority of the electors voted "Irrigation District—Yes," the board, by an order entered upon its minutes, shall:

(a) Declare such territory duly organized as an irrigation district under the name and style theretofore designated.

(b) Declare the persons receiving respectively the highest number of votes for directors to be duly elected.

(c) Cause a copy of such order and a plat of the district, each duly certified by the clerk of the board of county commissioners, to be immediately filed for record in the office of the county recorder of each county in which any portion of such lands is situated. Certified copies thereof shall also be filed with the county clerks of such counties.

3. Thereafter, the organization of the district shall be complete.

Sec. 2.6. NRS 539.155 is hereby amended to read as follows:

539.155 1. The returns shall be delivered to the secretary of the district. No list, tally paper or returns from any election shall be set aside or rejected for want of form if they can be satisfactorily understood.

2. The board of directors shall meet at its usual place of meeting on ~~the second Monday~~ **or before the sixth working day** after an election to canvass the returns, and it shall proceed in the same manner and with like effect, as near as may be, as the board of county commissioners in canvassing the returns of general elections.

3. When the board of directors shall have declared the result, the secretary shall make full entries in his record in like manner as is required of the county clerk in general elections.

Sec. 2.7. NRS 541.360 is hereby amended to read as follows:

541.360 The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of general elections, and shall make their returns to the secretary of the district. At any regular or special meeting of the board held not earlier than ~~5~~ **6** **working** days following the date of the election, the returns thereof must be canvassed and the results thereof declared. If any election held pursuant to NRS 541.340 is consolidated with any primary or general election, the returns thereof must be made and canvassed at the time and in the manner provided by law for the canvass of the returns of such a primary or general election. The canvassing body shall promptly certify and transmit to the board a statement of the result of the vote upon the proposition submitted pursuant to NRS 541.340. Upon receipt of the statement, the board shall tabulate and declare the results of the proposition voted on at the election.

Sec. 3. Section 5.100 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 67, is hereby amended to read as follows:

Sec. 5.100 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the City Council.

2. The City Council shall meet within ~~5~~ **6** **working** days after any election and canvass the returns and declare the result. The election returns

shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the 1st Monday in July next following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 4. Section 5.090 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 616, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the Board of Councilmen.

2. The Board of Councilmen shall meet on *or before* the ~~first~~ ~~Tuesday~~ ~~Wednesday~~ **sixth working day** after any election and canvass the returns and declare the result. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the Board of Councilmen.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the 1st Monday in July next following their election.

4. If any election should result in a tie, the Board of Councilmen shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 5. Section 5.090 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 464, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from a municipal election must be filed with the City Clerk, who shall immediately place the returns in a safe or vault. No person may handle, inspect or in any manner interfere with the returns until the returns are canvassed by the City Council.

2. The City Council shall meet within ~~5~~ **6 working** days after an election and canvass the returns and declare the result. The election returns must be sealed and kept by the City Clerk for 2 years, and no person may

have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the first Monday in July next following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 6. ~~{Section 1.060 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 373, Statutes of Nevada 1979, at page 644, is hereby amended to read as follows:~~

~~Sec. 1.060 Elective officers.~~

~~1. The elective officers of the City consist of:~~

~~(a) A Mayor.~~

~~(b) Six Councilmen.~~

~~(c) One Municipal Judge and as many additional judges as the City Council deems necessary.~~

~~{(d) A City Attorney.}~~

~~2. Such officers shall be elected as provided by this Charter.} (Deleted by amendment.)~~

Sec. 7. ~~{Section 1.090 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 210, Statutes of Nevada 1997, at page 734, is hereby amended to read as follows:~~

~~Sec. 1.090 Appointive officers.~~

~~1. The City Council shall provide for the appointment of a City Manager to perform the duties outlined in section 3.020. A vacancy in the office of City Manager must be filled within 6 months.~~

~~2. Applicants for the position of City Manager need not be residents of the City or State at the time of their appointment, except that applicants who are residents of the City and who have qualifications equal to those of nonresidents must be given preference in filling the position.~~

~~3. The City Council may establish such other appointive offices as it may deem necessary for the operation of the City by designating the position and the qualifications therefor by ordinance. Appointive offices are limited to the head of each department or division except:~~

~~(a) One immediate assistant for the Director of Public Works.~~

~~(b) Special technical staff members who report directly to the City Manager.~~

~~(c) In the Fire Department and Police Department, no positions below the office of Chief.~~

~~Appointments of such officers must be made by the City Manager, and the appointment of the Chief of Police and the Fire Chief must be confirmed by the City Council.~~

~~4. A City Clerk must be appointed by the City Council.~~

~~5.—A City Attorney must be appointed by the City Council.] (Deleted by amendment.)~~

Sec. 8. ~~[Section 1.100 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 210, Statutes of Nevada 1997, at page 734, is hereby amended to read as follows:~~

~~Sec. 1.100—Appointive officers: Miscellaneous provisions:~~

~~1.—All appointive officers, except the City Clerk and his deputy [,] and the City Attorney and his assistant attorneys, shall perform such duties as may be designated by the City Manager.~~

~~2.—Any employee of the City holding a Civil Service rating under the City and who is appointed to any position provided for in section 1.090 does not lose his Civil Service rating while serving in that position.~~

~~3.—All appointive officers are entitled to all employment benefits to which Civil Service employees are entitled.~~

~~4.—The City Council may require from all other officers and employees of the City constituted or appointed under this Charter, except the Mayor and Councilmen, sufficient security for the faithful and honest performance of their respective duties.] (Deleted by amendment.)~~

Sec. 9. ~~[Section 1.110 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, at page 1964, is hereby amended to read as follows:~~

~~Sec. 1.110—Appointive officers: Duties; salary:~~

~~1.—All appointive officers of the City, except the City Manager, the City Attorney and his assistant attorneys and the Board of Health, shall perform such duties under the direction of the City Manager [,] as may be designated by the City Council.~~

~~2.—All appointive officers of the City shall receive such salary as may be designated by the City Council.] (Deleted by amendment.)~~

Sec. 10. ~~[Section 3.060 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1369, is hereby amended to read as follows:~~

~~Sec. 3.060—City Attorney: Qualifications; duties; salary:~~

~~1.—Except as otherwise provided in section 3.070, the City Council shall appoint a City Attorney and fix his salary by resolution.~~

~~2.—The City Attorney is the Chief Legal Officer of the City and shall perform such duties as may be designated by the City Council or prescribed by ordinance.~~

~~3.—The City Attorney is under the general direction and supervision of the City Council.~~

~~4.—The City Attorney must be a duly licensed member of the State Bar of Nevada and a qualified elector within the City. [Once elected, he shall hold office for a term of 4 years and until his successor is duly elected and qualified.~~

~~2.]-5.—The City Attorney [is the Legal Officer of the City and] shall:~~

~~(a) [Perform such duties as may be designated by ordinance;~~

- ~~(b)]—Be present at all meetings of the City Council;~~
- ~~[(c)]—(b) Be counsel for the Civil Service Commission;~~
- ~~[(d)]—(c) Devote his full time to the duties of the office; and~~
- ~~[(e)]—(d) Not engage in the private practice of law.~~

~~3.—The City Attorney is entitled to receive a salary as fixed by resolution of the City Council.~~

~~4.]—6.—The City Attorney serves at the pleasure of the City Council and may be removed by an affirmative vote of a majority of the entire membership of the City Council at any time.~~

~~7.—The City Attorney may appoint and remove such assistants as he may require in the discharge of the duties of his office. Such assistants must not be Civil Service employees. The Council may appropriate such an amount of money as it may deem proper to compensate such assistants. Such assistants who are attorneys and are employed for more than 20 hours per week by the City Attorney shall not engage in the private practice of law.~~

~~8.—Any elected City Attorney who holds office on October 1, 2007, is entitled to serve the remainder of the elected term or through the conclusion of the elected term expiring in November 2014, whichever occurs later.]~~
(Deleted by amendment.)

Sec. 11. ~~[Section 1.060 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 394, is hereby amended to read as follows:~~

~~Sec. 1.060—Elective officers: Qualifications; salaries:~~

~~1.—The elective officers of the City consist of:~~

~~(a) A Mayor.~~

~~(b) Five members of the Council.~~

~~(c) [A City Attorney.~~

~~(d)]—Municipal Judges, the number to be determined pursuant to section 4.010.~~

~~2.—All elective officers of the City must be:~~

~~(a) Bona fide residents of the City for at least 30 days immediately preceding the last day for filing a declaration of candidacy for such an office.~~

~~(b) Residents of the City during their term of office, and, in the case of a member of the Council, a resident of the ward the member represents.~~

~~(c) Registered voters within the City.~~

~~3.—No person may be elected or appointed as a member of the Council who was not an actual bona fide resident of the ward to be represented by him for a period of at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, or, in the case of appointment, 30 days immediately preceding the day the office became vacant.~~

~~4.—[The City Attorney must be a licensed member of the State Bar of Nevada.~~

~~5.]—Each elective officer is entitled to receive a salary in an amount fixed by the City Council. At any time before January 1 of the year in which a general election is held, the City Council shall enact an ordinance fixing the~~

~~initial salary for each elective office for the term beginning on the first Monday following that election. This ordinance may not be amended to increase or decrease the salary for the office of Mayor, City Councilman or City Attorney during the term. If the City Council fails to enact such an ordinance before January 1 of the election year, the succeeding elective officers are entitled to receive the same salaries as their respective predecessors.] (Deleted by amendment.)~~

Sec. 12. ~~[Section 1.070 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 395, is hereby amended to read as follows:~~

~~Sec. 1.070 Elective offices; vacancies. Except as otherwise provided in NRS 268.325:~~

~~1. A vacancy in the City Council, or in the office of [City Attorney or] Municipal Judge must be filled by appointment of the Mayor, subject to confirmation by the City Council, within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. If the majority of the Council is unable or refuses for any reason to confirm any appointment made by the Mayor within 30 days after the vacancy occurs, the City Council shall present to the Mayor the names of two qualified persons to fill the vacancy. The Mayor shall, within 15 days after the presentation, select one of the two qualified persons to fill the vacancy. The appointee must have the same qualifications required of the elected official.~~

~~2. A vacancy in the office of the Mayor must be filled by the Mayor pro tempore. The resulting vacancy in the City Council must be filled as provided in subsection 1.~~

~~3. The appointee or Mayor pro tempore, in case of a vacancy in the office of Mayor, shall serve until his successor is elected and qualified at the next election to serve the remainder of the unexpired term.] (Deleted by amendment.)~~

Sec. 13. ~~[Section 1.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 129, Statutes of Nevada 1993, at page 229, is hereby amended to read as follows:~~

~~Sec. 1.080 Appointive positions:~~

~~1. The Mayor of the City shall appoint a City Manager, subject to confirmation by the City Council.~~

~~2. Subject to confirmation by the City Council, the City Manager shall appoint:~~

~~(a) The heads of the Fire and Police departments and one technical assistant in each of those departments. A technical assistant may not supervise any other employees.~~

~~(b) Any employee employed in a bona fide executive, administrative or professional capacity. As used in this paragraph:~~

~~(1) "Employee employed in a bona fide executive capacity" has the meaning ascribed to it in 29 C.F.R. § 541.1, as that section existed on October 1, 1993.~~

~~(2) "Employee employed in a bona fide administrative capacity" has the meaning ascribed to it in 29 C.F.R. § 541.2, as that section existed on October 1, 1993.~~

~~(3) "Employee employed in a bona fide professional capacity" has the meaning ascribed to it in 29 C.F.R. § 541.3, as that section existed on October 1, 1993.~~

~~(c) The City Attorney:~~

~~3. The City Council shall create and revise as necessary a document which:~~

~~(a) Describes the organization of all departments, divisions and offices of the City; and~~

~~(b) Sets forth all appointive positions of the City.] (Deleted by amendment.)~~

Sec. 14. ~~[Section 3.050 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 129, Statutes of Nevada 1993, at page 231, is hereby amended to read as follows:~~

~~Sec. 3.050 City Attorney: Duties. - [; Assistant City Attorneys.~~

~~1.] The City Attorney shall:~~

~~[(a)] 1. Be the Legal Officer of the City;~~

~~[(b)] 2. Represent the City and any officer or employee or former officer or employee of the City, for any act arising out of his employment or duties, in any action or proceeding in which the City or such officer or employee is concerned or is a party.~~

~~[(c)] 3. Perform such duties as may be designated by [ordinance.~~

~~[(d)] the City Manager and such other duties as may be directed by the City Council.~~

~~4. Attend all regular, special and emergency meetings of the City Council, and may attend executive sessions concerning public officers.~~

~~[(e)] 5. Approve any contract made by and any bond or security given to the City endorsing his approval in writing on the document.~~

~~[(f)] 6. Prepare all proposed ordinances and review all resolutions and amendments to the ordinances or resolutions.~~

~~[(g)] 7. Not engage in any other business or occupation nor in the private practice of law without the approval of the City Council.~~

~~[2. The City Attorney may appoint and remove or discharge assistant city attorneys pursuant to ordinances adopted relating thereto. The City Council may appropriate the money it considers proper to compensate such assistants.~~

~~3. An Assistant City Attorney who is removed from his position by the City Attorney has the right of appeal to the Mayor and City Council and may demand a hearing before the City Council. The demand must be made within~~

10 days after the removal. The decision of the City Council upon the hearing is final.]

~~8. Any elected City Attorney who holds office on October 1, 2007, is entitled to serve the remainder of the elected term.] (Deleted by amendment.)~~

Sec. 15. ~~[Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:~~

~~Sec. 5.010 General elections.~~

~~1.—On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the first, third and fifth wards, and a Municipal Judge for Department 1, [and a City Attorney,] all of whom hold office until their successors have been elected and qualified, pursuant to subsection 2 or 4.~~

~~2.—On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 5 or 6.~~

~~3.—On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, Council members to represent the first, third and fifth wards, [and a City Attorney,] all of whom hold office for a term of 4 years and until their successors have been elected and qualified.~~

~~4.—On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his successor has been elected and qualified, pursuant to subsection 7.~~

~~5.—On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, Council members to represent the second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.~~

~~6.—On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his successor has been elected and qualified.~~

~~7.—On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his successor has been elected and qualified.~~

~~8.—All candidates at an election that is held pursuant to this section must be voted upon by the registered voters of the City at large.] (Deleted by amendment.)~~

Sec. 16. ~~[Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:~~

~~Sec. 5.020 Primary municipal elections.~~

~~1.—Candidates for the offices of Mayor [City Attorney] and Municipal Judge must be voted upon by the registered voters of the City at large. Candidates to represent a ward as a member of the City Council must be voted upon by the registered voters of the ward to be represented by them.~~

~~2.—The names of the two candidates for Mayor [City Attorney] and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.] (Deleted by amendment.)~~

Sec. 17. Section 5.090 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 470, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the Board of Councilmen.

2. The Board of Councilmen shall meet on *or before* the ~~{1st Tuesday}~~ ~~{first Wednesday}~~ **sixth working day** after any election and canvass the returns and declare the result. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the Board of Councilmen.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the 1st Monday in July next following their election.

4. If any election should result in a tie, the Board of Councilmen shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 18. Section 22 of the Airport Authority Act for Battle Mountain, being chapter 458, Statutes of Nevada 1983, at page 1214, is hereby amended to read as follows:

Sec. 22. Election: Conduct; canvass of returns; declaration of results.

1. The Election Board shall conduct the election in the manner prescribed by law for the holding of general elections, and shall make their returns to the Secretary of the Authority.

2. At any regular or special meeting of the Board of County Commissioners of Lander County held within ~~5~~ 6 working days following the date of the election, the returns thereof must be canvassed and the results thereof declared.

Sec. 19. Section 16 of the Airport Authority Act for Carson City, being chapter 844, Statutes of Nevada 1989, at page 2028, is hereby amended to read as follows:

Sec. 16. Election: Conduct; canvas of returns; declaration of results.

1. The Election Board shall conduct the election in the manner prescribed by law for the holding of general elections, and shall make its returns to the Secretary of the Board.

2. The Board of Supervisors shall, within ~~5~~ 6 working days after the election, canvass the returns and declare the results of the election.

Sec. 20. Section 22 of the Reno-Tahoe Airport Authority Act, being chapter 474, Statutes of Nevada 1977, at page 974, is hereby amended to read as follows:

Sec. 22. Election: Conduct; canvass of returns; declaration of results.

1. The Election Board or boards shall conduct the election in the manner prescribed by law for the holding of general elections, and shall make their returns to the Secretary of the Authority.

2. At any regular or special meeting of the Board held within ~~5~~ 6 working days following the date of the election, the returns thereof shall be canvassed and the results thereof declared.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 576.

Bill read second time.

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

Amendment No. 502.

AN ACT relating to public welfare; providing for the certification of intermediary service organizations which provide certain services relating to personal assistance received by persons with disabilities; clarifying the definition of "agency to provide personal care services in the home" for purposes of licensing; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-25 of this bill provide for the certification of an intermediary service organization by the Office of Disability Services. Section 3 provides that an intermediary service organization is authorized to provide certain services for a person with a disability or for another person responsible for the care of a person with a disability relating to the provision of personal assistance to the person with a disability. Such services may relate to

employment matters concerning a personal assistant and other financial management relating to the personal assistance for the disabled person. Section 4 makes it a misdemeanor to operate an intermediary service organization without a certificate issued by the Office of Disability Services.

Section 9 of this bill authorizes the Department of Health and Human Services to prescribe a fee for an application for the issuance of a certificate to operate as an intermediary service organization. Sections 18 and 19 of this bill require the Department to adopt regulations governing the certification of intermediary service organizations and to establish the criteria for the imposition of sanctions for certain violations relating to the certification of the intermediary service organization.

Section 31 of this bill clarifies the term “agency to provide personal care services in the home” so that certain **organized** groups of persons ~~[who form a nonprofit corporation to]~~ that employ or contract with persons to provide certain ~~[medical and]~~ nonmedical services for a person with a disability are not required to obtain a license from the Health Division of the Department of Health and Human Services. Section 31 also excludes an intermediary service organization so that such organizations are not required to obtain a license from the Health Division. ~~[Finally, section 31 also clarifies that the services that may be provided by an agency to provide personal care services in the home include nonmedical services and certain authorized medical services.]~~ (NRS 449.0021)

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

Section 1. Chapter 426 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

Sec. 2. *“Intermediary service organization” means ~~any~~ a nongovernmental entity that provides services authorized pursuant to section 3 of this act for a person who has a disability or other responsible person.*

Sec. 3. *1. An intermediary service organization that is certified pursuant to sections 2 to 25, inclusive, of this act may provide services for a person with a disability or other responsible person relating to personal assistance received by the person with a disability. The services that may be provided by an intermediary service organization include, without limitation:*

(a) Obtaining a criminal background check of a personal assistant selected by the person with a disability or other responsible person to provide nonmedical services and any medical services authorized pursuant to NRS 629.091;

(b) Providing payroll services to pay the personal assistant and determine any tax liability;

(c) Providing services relating to financial management; and

(d) Providing any other services relating to the employment of a personal assistant and any other financial assistance relating to the personal assistance for the person with a disability.

2. As used in this section:

(a) "Other responsible person" means:

(1) A parent or guardian of, or any other person legally responsible for, a person with a disability who is under the age of 18 years; or

(2) A parent, spouse, guardian or adult child of a person with a disability who suffers from a cognitive impairment.

(b) "Personal assistance" means the provision of any goods or services to help a person with a disability maintain his independence, personal hygiene and safety, including, without limitation, the provision of services by a personal assistant.

(c) "Personal assistant" means a person who, for compensation and under the direction of a person with a disability or other responsible person, performs services for a person with a disability to help him maintain his independence, personal hygiene and safety.

Sec. 4. 1. A person ~~f, state or local government or agency thereof~~ shall not operate or maintain in this State an intermediary service organization without first obtaining a certificate therefor as provided in sections 2 to 25, inclusive, of this act.

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

Sec. 5. Any person ~~f, state or local government or agency thereof~~ wishing to obtain a certificate pursuant to the provisions of sections 2 to 25, inclusive, of this act must file with the Office an application on a form prescribed, prepared and furnished by the Office, containing:

1. The name of the applicant and, if a natural person, whether the applicant has attained the age of 21 years.

2. The location of the intermediary service organization.

3. The name of the person in charge of the intermediary service organization.

4. Such other information as may be required by the Office for the proper administration and enforcement of sections 2 to 25, inclusive, of this act.

5. Evidence satisfactory to the Office 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 intermediary service organization 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 intermediary service organization for which application is made.~~

6. *Evidence satisfactory to the Office of the ability of the applicant to comply with the provisions of sections 2 to 25, inclusive, of this act and the standards and regulations adopted by the Department.*

Sec. 6. 1. *An applicant for the issuance or renewal of a certificate as an intermediary service organization must submit to the Office the statement prescribed by the Division of Welfare and Supportive Services of the Department pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. *The Office 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 certificate; or*

(b) *A separate form prescribed by the Office.*

3. *A certificate as an intermediary service organization may not be issued or renewed by the Office 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 Office 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. 7. *An application for the issuance of a certificate to operate an intermediary service organization pursuant to section 5 of this act must include the social security number of the applicant.*

Sec. 8. 1. *If the Office 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 certificate to operate an intermediary service organization, the Office shall deem the certificate 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 Office receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. *The Office shall reinstate a certificate to operate an intermediary service organization that has been suspended by a district court pursuant to*

NRS 425.540 if the Office receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 9. Each application for a certificate must be accompanied by such fee as may be determined by regulation of the Department. The Department may, by regulation, allow or require payment of a fee for a certificate in installments and may fix the amount of each payment and the date on which the payment is due.

Sec. 10. 1. Each certificate issued pursuant to sections 2 to 25, inclusive, of this act expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to section 9 of this act unless the Office finds, after an investigation, that the intermediary service organization has not satisfactorily complied with the provisions of sections 2 to 25, inclusive, of this act or the standards and regulations adopted by the Department.

2. Each reapplication for an intermediary service organization must include, without limitation, a statement that the organization is in compliance with the provisions of sections 20 to 23, inclusive, of this act.

Sec. 11. 1. The Office shall issue the certificate to the applicant if, after investigation, the Office finds that the:

(a) Applicant is in full compliance with the provisions of sections 2 to 25, inclusive, of this act; and

(b) Applicant is in substantial compliance with the standards and regulations adopted by the Department.

2. A certificate applies only to the person to whom it is issued and is not transferable.

Sec. 12. Each certificate issued by the Office must be in the form prescribed by the Office and must contain:

1. The name of the person or persons authorized to operate the intermediary service organization;

2. The location of the intermediary service organization; and

3. The services offered by the intermediary service organization.

Sec. 13. 1. The Office may cancel the certificate of an intermediary service organization and issue a provisional certificate, effective for a period determined by the Office, to the intermediary service organization if the intermediary service organization:

(a) Is in operation at the time of the adoption of standards and regulations pursuant to the provisions of sections 2 to 25, inclusive, of this act and the Office determines that the intermediary service organization requires a reasonable time under the particular circumstances within which to comply with the standards and regulations; or

(b) Has failed to comply with the standards or regulations and the Office determines that the intermediary service organization is in the process of

making the necessary changes or has agreed to make the changes within a reasonable time.

2. The provisions of subsection 1 do not require the issuance of a certificate or prevent the Office from refusing to renew or from revoking or suspending any certificate if the Office deems such action necessary for the health and safety of a person for whom the intermediary service organization provides services.

Sec. 14. 1. Money received from the certification of intermediary service organizations ~~must~~ :

(a) Must be forwarded to the State Treasurer for deposit in the State ~~General Fund.~~ Treasury;

(b) Must be accounted for separately in the State General Fund; and

(c) May only be used to carry out the provisions of sections 2 to 25, inclusive, of this act.

2. The Office shall enforce the provisions of ~~section~~ sections 2 to 25, inclusive, of this act and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 15. The Office may:

1. Upon receipt of an application for a certificate, conduct an investigation into the qualifications of personnel, methods of operation and policies and purposes of any person proposing to engage in the operation of an intermediary service organization.

2. Upon receipt of a complaint against an intermediary service organization, except for a complaint concerning the cost of services, conduct an investigation into the qualifications of personnel, methods of operation and policies, procedures and records of that intermediary service organization or any other intermediary service organization which may have information pertinent to the complaint.

3. Employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of sections 2 to 25, inclusive, of this act.

Sec. 16. The Office may deny an application for a certificate or may suspend or revoke any certificate issued under the provisions of sections 2 to 25, inclusive, of this act upon any of the following grounds:

1. Violation by the applicant or the holder of a certificate of any of the provisions of sections 2 to 25, inclusive, of this act or of any other law of this State or of the standards, rules and regulations adopted thereunder.

2. Aiding, abetting or permitting the commission of any illegal act.

3. Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the operation of an intermediary service organization.

4. Conduct or practice detrimental to the health or safety of a person under contract with or employees of the intermediary service organization.

Sec. 17. 1. *If an intermediary service organization violates any provision related to its certification, including, without limitation, any provision of sections 2 to 25, inclusive, of this act or any condition, standard or regulation adopted by the Department, the Office, in accordance with the regulations adopted pursuant to section 18 of this act, may, as it deems appropriate:*

(a) Prohibit the intermediary service organization from providing services pursuant to section 3 of this act until it determines that the intermediary service organization has corrected the violation;

(b) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(c) Appoint temporary management to oversee the operation of the intermediary service organization and to ensure the health and safety of the persons for whom the intermediary service organization performs services, until:

(1) It determines that the intermediary service organization has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. *If the intermediary service organization fails to pay any administrative penalty imposed pursuant to paragraph (b) of subsection 1, the Office may:*

(a) Suspend the certificate of the intermediary service organization until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. *The Office may require any intermediary service organization that violates any provision of sections 2 to 25, inclusive, of this act or any condition, standard or regulation adopted by the Department, to make any improvements necessary to correct the violation.*

4. *Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the persons for whom the intermediary service organization performs services in accordance with applicable federal standards.*

Sec. 18. *The Department shall adopt regulations establishing the criteria for the imposition of each sanction prescribed by section 17 of this act. These regulations must:*

1. Prescribe the circumstances and manner in which each sanction applies;

2. Minimize the time between identification of a violation and the imposition of a sanction;

3. Provide for the imposition of incrementally more severe sanctions for repeated or uncorrected violations; and

4. *Provide for less severe sanctions for lesser violations of applicable state statutes, conditions, standards or regulations.*

Sec. 19. 1. *When the Office intends to deny, suspend or revoke a certificate or impose any sanction prescribed by section 17 of this act, it shall give reasonable notice to the holder of the certificate by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. Notice is not required if the Office finds that the public health requires immediate action. In that case, it may order a summary suspension of a certificate or impose any sanction prescribed by section 17 of this act, pending proceedings for revocation or other action.*

2. *If a person wants to contest the action of the Office, he must file an appeal pursuant to regulations adopted by the Department.*

3. *Upon receiving notice of an appeal, the Office shall hold a hearing pursuant to regulations adopted by the Department.*

4. *The Department shall adopt such regulations as are necessary to carry out the provisions of this section.*

Sec. 20. 1. *Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the holder of a certificate to operate an intermediary service organization shall:*

(a) *Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in subsection 1 of section 23 of this act;*

(b) *Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);*

(c) *Obtain from the employee or independent contractor two sets of fingerprints and a written authorization 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; and*

(d) *Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).*

2. *The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in subsection 1 of section 23 of this act.*

3. *The holder of a certificate to operate an intermediary service organization shall ensure that the criminal history of each employee or independent contractor who works at or for the intermediary service organization is investigated at least once every 5 years. The certificate holder shall:*

(a) If the intermediary service organization does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee or independent contractor has been convicted of a crime listed in subsection 1 of section 23 of this act and immediately inform the Office and the holder of a certificate to operate the intermediary service organization for which the person works whether the employee or independent contractor has been convicted of such a crime.

5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an intermediary service organization that submits fingerprints pursuant to this section for the reasonable cost of the investigation. The intermediary service organization may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the intermediary service organization requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

Sec. 21. Each intermediary service organization shall maintain accurate records of the information concerning its employees and independent contractors collected pursuant to section 20 of this act and shall maintain a copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History and proof that it submitted two sets of fingerprints to the Central Repository for its report. These records must be made available for inspection by the Office at any reasonable time, and copies thereof must be furnished to the Office upon request.

Sec. 22. 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to section 20 of this act, or evidence from any other source, that an employee or independent contractor of an intermediary service organization has been convicted of a crime listed in subsection 1 of section 23 of this act, the holder of a certificate to operate the intermediary service organization shall terminate the employment or contract of that person after allowing him time to correct the information pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may

immediately inform the intermediary service organization. An intermediary service organization that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information received from the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An intermediary service organization that has complied with section 20 of this act may not be held civilly or criminally liable based solely upon the ground that the intermediary service organization allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor from the Central Repository;

(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;

(c) Based on the information received from the Central Repository, if the information received from the Central Repository was inaccurate; or

(d) Any combination thereof.

↪ An intermediary service organization may be held liable for any other conduct determined to be negligent or unlawful.

Sec. 23. In addition to the grounds listed in section 16 of this act, the Office may deny a certificate to operate an intermediary service organization to an applicant or may suspend or revoke the certificate of a holder of a certificate to operate an intermediary service organization if:

1. The applicant or holder of a certificate has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Assault with intent to kill or to commit sexual assault or mayhem;

(c) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(d) Abuse or neglect of a child or contributory delinquency;

(e) 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, within the past 7 years;

(f) A violation of any provision of NRS 200.50955 or 200.5099;

(g) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; or

(h) Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years; or

2. The holder of a certificate has continued to employ a person who has been convicted of a crime listed in subsection 1.

Sec. 24. 1. The Office may bring an action in the name of the State to enjoin any person ~~from operating or maintaining an intermediary service organization within the meaning of sections 2 to 25, inclusive, of this act~~ ~~from operating or maintaining an intermediary service organization within the meaning of sections 2 to 25, inclusive, of this act~~

(a) Without first obtaining a certificate therefor; or

(b) After his certificate has been revoked or suspended by the Office.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain the intermediary service organization without a certificate.

Sec. 25. *The district attorney of the county in which an intermediary service organization operates shall, upon application by the Office, institute and conduct the prosecution of any action for violation of any provisions of sections 2 to 25, inclusive, of this act.*

Sec. 26. NRS 426.205 is hereby amended to read as follows:

426.205 As used in NRS 426.205 to 426.295, inclusive, *and sections 2 to 25, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 426.215 and 426.225 *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 27. NRS 426.245 is hereby amended to read as follows:

426.245 *1.* The Department may adopt any regulations to carry out the provisions of NRS 426.205 to 426.295, inclusive [†], *and sections 2 to 25, inclusive, of this act.*

2. The Department shall adopt regulations governing the certification of intermediary service organizations and such other regulations as it deems necessary to carry out the provisions of sections 3 to 25, inclusive, of this act.

Sec. 28. NRS 427A.175 is hereby amended to read as follows:

427A.175 *1.* Within 1 year after an older patient sustains damage to his property as a result of any act or failure to act by a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, an agency to provide personal care services in the home, *an intermediary service organization* or an agency to provide nursing in the home in protecting the property, the older patient may file a verified complaint with the Division setting forth the details of the damage.

2. Upon receiving a verified complaint pursuant to subsection 1, the Administrator shall investigate the complaint and attempt to settle the matter through arbitration, mediation or negotiation.

3. If a settlement is not reached pursuant to subsection 2, the facility, agency or older patient may request a hearing before the Specialist for the Rights of Elderly Persons. If requested, the Specialist for the Rights of Elderly Persons shall conduct a hearing to determine whether the facility or agency is liable for damages to the patient. If the Specialist for the Rights of Elderly Persons determines that the facility or agency is liable for damages to the patient, he shall order the amount of the surety bond pursuant to NRS 449.065 or the substitute for the surety bond necessary to pay for the damages pursuant to NRS 449.067 to be released to the Division. The Division shall pay any such amount to the older patient or the estate of the older patient.

4. The Division shall create a separate account for money to be collected and distributed pursuant to this section.

5. As used in this section:

(a) "Agency to provide nursing in the home" has the meaning ascribed to it in NRS 449.0015;

(b) "Agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021;

(c) "Facility for intermediate care" has the meaning ascribed to it in NRS 449.0038;

(d) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039;

(e) ***"Intermediary Service Organization" has the meaning ascribed to it in section 2 of this act;***

(f) "Older patient" has the meaning ascribed to it in NRS 449.063; and

~~{(f)}~~ (g) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 29. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Department:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

↪ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Department. The Department shall delete all references in the Central Repository relating to that particular arrest.

4. The Department shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Department may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 449.179 ~~{} and~~ **section 20 of this act**; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof has a legitimate need to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➔ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

↪ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

↪ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has his fingerprints submitted pursuant to NRS 449.176 or 449.179 ~~{ }~~ **or section 20 of this act.**

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2, and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 30. 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, alcohol or 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) ***Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in section 2 of this act.***

(g) Any employee of the Department of Health and Human Services.

~~[(g)]~~ (h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

~~[(h)]~~ (i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

~~[(i)]~~ (j) 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)]~~ (k) Every social worker.

~~[(k)]~~ (l) 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. 31. NRS 449.0021 is hereby amended to read as follows:

449.0021 1. "Agency to provide personal care services in the home" means any person, other than a natural person, which provides in the home, through its employees or by contractual arrangement with other persons, nonmedical services ~~and medical services authorized pursuant to NRS 629.0011~~ related to personal care to elderly persons or persons with ~~mental or physical~~ disabilities to assist those persons with activities of daily living, including, without limitation:

- (a) The elimination of wastes from the body;
- (b) Dressing and undressing;
- (c) Bathing;
- (d) Grooming;
- (e) The preparation and eating of meals;
- (f) Laundry;
- (g) Shopping;
- (h) Cleaning;
- (i) Transportation; and
- (j) Any other minor needs related to the maintenance of personal hygiene.

2. The term does not include:

(a) An independent contractor who provides nonmedical services specified by subsection 1 without the assistance of employees; ~~or~~

~~(b) A microboard, as defined by regulations adopted by the Board.~~

~~(b) An organized group composed of persons comprised of the family members or friends of an elderly person or person with a disability who organize as a nonprofit corporation and employ or contract a person~~

needing personal care services that employs or contracts with persons to provide services specified by subsection 1 for the person if:

(1) ~~The articles of incorporation are~~ organization of the group of persons is set forth in a written document that is made available for review by the Health Division upon request; and

(2) The personal care services are provided to only one person or one family who resides in the same residence; or

(c) An intermediary service organization.

3. As used in this section, "intermediary service organization" has the meaning ascribed to it in section 2 of this act.

Sec. 32. 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, 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 operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in section 2 of this act.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

~~(f)~~ **(g) Any employee of the Department of Health and Human Services.**

~~(g)~~ **(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.**

~~(h)~~ **(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.**

~~(i)~~ **(j) 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)~~ **(k) 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. 33. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2007, for all other purposes.

2. The provisions of sections 6, 7 and 8 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
 ↪ are repealed by the Congress of the United States.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 577.

Bill read second time.

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

Amendment No. 501.

AN ACT relating to medical facilities; requiring certain medical facilities to establish a program and policy relating to **the** safe handling of patients; requiring such a facility to establish a committee on safe handling of patients; **requiring such a facility to submit annual reports to the Legislature concerning the safe handling of patients;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires a hospital or facility for skilled nursing ~~care~~ to establish a committee on safe handling of patients. The committee is required to develop a program for safe handling of patients and recommend the program to the hospital or facility for skilled nursing . ~~care~~ The hospital or facility

for skilled nursing ~~care~~ is required to adopt a program for safe handling of patients, including annual training for employees on safe handling of patients and an annual evaluation of the policy.

This bill also requires the hospital or facility for skilled nursing ~~care~~ to consider the incorporation of lifting equipment when constructing or remodeling the facility ~~and~~ **and to submit annual reports to the Legislature concerning the safe handling of patients.**

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 ~~7~~ **9**, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~7~~ **9**, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 ~~, 4 and 5~~ **to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. *"Lifting equipment" means a mechanical device designed to assist or aid in the lifting, transfer, transport or repositioning of a patient.*

Sec. 4. *"Lifting team" means a group of persons ~~specifically~~ trained to conduct a lift, transfer, transport or significant repositioning of ~~a~~ an immobile or obese large child or adult patient, with or without the assistance of lifting equipment.*

Sec. 5. *"Manual handling" means the use of a caregiver's hands and muscle strength, unaided by technology or lifting equipment, to lift, transfer, transport or reposition a patient.*

~~Sec. 5.~~ Sec. 6. *"Safe handling of a patient" means the use of manual handling, lifting teams or lifting equipment to lift, transfer, transport or reposition a patient.*

~~Sec. 6.~~ Sec. 7. 1. ~~A~~ *Except as otherwise provided in subsection 2, a hospital or facility for skilled nursing ~~care~~ shall establish a committee on safe handling of patients. The committee must consist of an equal number of members who:*

(a) *Represent the interests of the ownership or management of the hospital or facility for skilled nursing; ~~and~~*

(b) *Provide medical care directly to the patients at the hospital or facility for skilled nursing. ~~and~~*

2. *If an official committee on staffing or patient care exists at a hospital or facility for skilled nursing and the committee includes at least one nurse who is not a representative of management of the hospital or facility for skilled nursing, the committee on staffing or patient care shall serve as the committee on safe handling of patients.*

3. *The committee on safe handling of patients shall:*

(a) *Design a program for safe handling of patients at the hospital or facility for skilled nursing; ~~and~~*

(b) *Recommend the program designed pursuant to paragraph (a) to the hospital or facility for skilled nursing.* ~~care.~~

~~Sec. 7.]~~ **Sec. 8. 1.** *A hospital or facility for skilled nursing* ~~care.~~ *shall adopt a program for safe handling of patients which must include, without limitation:*

(a) *The policy of the hospital or facility for skilled nursing* ~~care for the~~ *for:*

(1) The required use of lifting teams or lifting equipment ;

(2) Manual handling and the reduction of hazards relating to manual handling; and

(3) The lifting or significant repositioning of an immobile or obese large child or adult patient,

in all units and during all shifts.

(b) *Annual training for persons employed by the hospital or facility for skilled nursing on:*

(1) *The policy for the use of manual handling, lifting teams and lifting equipment adopted pursuant to paragraph (a);*

(2) *The proper use of lifting equipment; and*

(3) *The proper use of lifting teams.*

(c) *An annual evaluation of the policy adopted pursuant to paragraph (a).*

(d) *If the hospital or facility for skilled nursing* ~~care.~~ *is constructing or renovating a building, a consideration of the incorporation of lifting equipment into the building.*

(e) *Procedures that allow an employee to refuse to be involved in handling of a patient that the employee believes in good faith will expose the patient or an employee to an unacceptable risk of injury. An employee who follows the procedure in good faith must not be the subject of disciplinary action for the refusal.*

2. *When adopting the program for safe handling of patients pursuant to subsection 1, the hospital or facility for skilled nursing* ~~care.~~ *shall consider, without limitation:*

(a) *The recommendations submitted to the hospital or facility for skilled nursing* ~~care.~~ *pursuant to section* ~~6.]~~ *7 of this act; and*

(b) *The safety of the patients at the hospital or facility for skilled nursing* ~~care.~~

Sec. 9. 1. *A hospital or facility for skilled nursing shall prepare an annual report which includes, for the previous year:*

(a) The number of employees who have received injuries relating to the lifting of patients;

(b) The collective number of days that employees were away from direct medical care because of injuries relating to the lifting of patients;

(c) The number of workers' compensation claims that were filed because of injuries relating to the lifting of patients;

(d) The number of employees who were placed on light-duty assignments because of injuries relating to the lifting of patients;

(e) The number of employees who terminated their employment because of injuries relating to the lifting of patients;

(f) The policies and protocols relating to safe handling of patients that have been implemented;

(g) A list of the names of the members of the committee on safe handling of patients established pursuant to section 7 of this act and their positions with the hospital or facility for skilled nursing; and

(h) The calendar of the meetings of the committee on safe handling of patients that were held and the minutes of those meetings.

2. The report prepared pursuant to subsection 1 must be submitted on or before June 10 of each year to:

(a) The Senate and Assembly standing committees with jurisdiction over health care issues, if the Legislature is in session; or

(b) The Legislative Committee on Health Care, if the Legislature is not in session.

Sec. 10. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, and sections 2 to 9, inclusive, of this act upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, or sections 2 to 9, inclusive, of this act or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

~~{Sec. 8.}~~ **Sec. 11.** 1. A hospital or facility for skilled nursing ~~care shall adopt~~ **shall:**

(a) **Adopt** the program required by section ~~{7}~~ **8** of this act on or before January 10, ~~{2010}~~ **2008.**

(b) **Submit its initial annual report pursuant to section 9 of this act on or before June 10, 2008.**

2. As used in this section:

(a) "Facility for skilled nursing "~~care~~" has the meaning ascribed to it in NRS 449.0039.

(b) "Hospital" has the meaning ascribed to it in NRS 449.012.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 600.

Bill read second time.

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

Amendment No. 549.

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 ~~{1 and}~~ **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 personal information from documents submitted to a governmental agency before January 1, 2007.** Section ~~7~~ **8** of this bill ~~also~~ 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, ~~and~~ employees **and members** of a governmental agency **or public body** relating to the disclosure of personal information ~~Section 1 also authorizes a person to request the redaction of personal information from documents submitted to a governmental agency before January 1, 2007.~~ **pursuant to section 2 or 3 of this bill.**

Section ~~3~~ **4** of this bill authorizes the use of the last four digits of a social security number in judgments, and sections ~~4 and 6~~ **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 ~~5~~ **6** of this bill authorizes the county recorder to allow the inspection and copying of certain records by family members ~~and~~ **, 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.

~~Section 1.~~ **Sec. 2.** NRS 239B.030 is hereby amended to read as follows:

239B.030 1. Except as otherwise provided in subsection 2, 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. A governmental agency may refuse to record, file or otherwise accept a document which does not contain such an affirmation when required and any document which contains ~~{the social security number of}~~ *personal information about* a person.

5. ~~{An officer or employee of a governmental agency 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 this section.}~~

~~6.}~~ 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 in a confidential manner or is obliterated or otherwise removed from the document ~~{}~~, *by any method, including, without limitation, through the use of computer software*. Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.

~~6.}~~ ~~7.}~~ *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. The governmental agency shall not charge any fee to perform such a service.*

~~8.}~~ ~~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. 2.}~~ *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. 3.~~ **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. 4.}~~ **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. 5.}~~ **Sec. 6.** NRS 247.090 is hereby amended to read as follows:

247.090 ~~{A}}~~

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, ~~or~~ 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. 6.}~~ **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=7}~~ **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=8}~~ **Sec. 9. 1.** This section, **section 1 and sections 3 to 8, inclusive, of this act** ~~{becomes}~~ **become** effective upon passage and approval.

2. Section 2 of this act becomes effective on January 1, 2008.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 70, 186, 328, 424, 478, 506, 605 just reported out committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Bobzien moved that Assembly Bill No. 297 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Hardy moved that Assembly Bill No. 145 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 25 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblyman Anderson.

Motion carried.

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

Assembly in recess at 12:19 p.m.

ASSEMBLY IN SESSION

At 12:33 p.m.

Madam Speaker presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 70.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 602.

SUMMARY—Revises provisions governing the compensation of the members ~~and certain officers~~ of the boards of trustees of school districts. (BDR 34-878)

AN ACT relating to education; revising provisions governing the monthly salaries of the members ~~and certain officers~~ of the boards of trustees of school districts; **authorizing the donation of the salaries to schools and school districts**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes varying salaries for the officers and other members of the boards of trustees of school districts based on the number of pupils enrolled in the school district during the immediately preceding school year. (NRS 386.320) ~~Under existing law, the board of trustees is required to elect a president, who must be a member of the board, and is required to either elect a clerk from among its members or select another qualified person who is not a member to serve as clerk. (NRS 386.310) This bill increases to \$2,000 the maximum monthly salary of those officers and the other members of the boards of trustees of school districts and makes that maximum monthly salary applicable in all school districts.~~ **This bill revises provisions governing the salaries of the members of the boards of trustees of school districts based on the population of the county in which the school district is located. This bill also authorizes a member of the board of trustees to donate all or a part of his salary to a school within the school district or to the school district.**

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

Section 1. NRS 386.290 is hereby amended to read as follows:

386.290 1. In addition to salaries ~~allowed under~~ **required by** NRS 386.320, a trustee ~~shall~~ **must** be allowed:

(a) His traveling expenses for traveling each way between his home and the place where board meetings are held at the rate authorized by law for state officers.

(b) His living expenses necessarily incurred while in actual attendance at board meetings at the rate authorized by law for state officers.

2. Claims for mileage and per diem allowances ~~shall~~ **must** be allowed and paid in the same manner as other claims against the school district fund are paid, but no claim for mileage and per diem allowances for living expenses ~~shall~~ **must** be allowed or paid to a trustee residing not more than 5 miles from the place where board meetings are held.

~~{Section 1.}~~ **Sec. 2.** NRS 386.320 is hereby amended to read as follows:

386.320 1. ~~{If the total pupil enrollment in the school district for the immediately preceding school year is less than 1,000:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of \$85 for each board of trustees meeting they attend, not to exceed \$170 a month.~~

~~(b) The other trustees may each receive a salary of \$80 for each board of trustees meeting they attend, not to exceed \$160 a month.~~

~~(c) Each member of ~~the~~ the board of trustees ~~and the clerk, if the clerk is not a member of the board of trustees, is entitled to receive a salary in an amount not to exceed \$2,000 a month, as determined by the board of trustees.~~ of a school district in a county whose population is less than 100,000 must receive a salary of \$115 for each meeting of the board he attends, not to exceed \$345 per month.~~

2. Each member of the board of trustees of a school district in a county whose population is 100,000 or more must receive a salary of \$2,000 per month.

3. A member of the board of trustees of a school district who receives a salary pursuant to this section may:

(a) Donate all or a part of the monthly salary that he receives to a school within the school district or to the school district; or

(b) In lieu of making a donation after he receives the salary, request that all or a part of his monthly salary be paid directly to a school within the school district or to the school district.

4. The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.

~~{2.} If the total pupil enrollment in the school district for the immediately preceding school year is 1,000 or more:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of \$85 for each board of trustees meeting they attend, not to exceed \$510 a month.~~

~~(b) The other trustees may each receive a salary of \$80 for each board of trustees meeting they attend, not to exceed \$480 a month.~~

~~(e) The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.]~~

~~[Sec. 2.]~~ **Sec. 3.** NRS 387.310 is hereby amended to read as follows:

387.310 1. Except as otherwise provided by the board of trustees, the clerk of the board shall draw all orders for the payment of money belonging to the school district. The orders must be listed on cumulative voucher sheets.

2. The board of trustees shall prescribe the procedures by which the orders must be approved and the cumulative voucher sheets signed. The procedures must provide:

(a) That the approval of the board of trustees is required before orders are paid unless a payment must be expedited for the school district to:

(1) Receive a discount or other savings which is related to the timeliness of payment;

(2) Avoid a service charge or other cost which is related to the timeliness of payment; or

(3) Abide by a purchase order, contract or other order for payment which has been approved by the board of trustees at a public meeting.

(b) For ratification by the board of trustees at its next regularly scheduled meeting of any payment that is made without the approval of the board pursuant to an exception set forth in paragraph (a).

3. When the orders have been approved and the cumulative voucher sheets have been signed in accordance with such procedures, the orders are valid vouchers in the hands of the county auditor for him to issue warrants on the county treasurer to be paid out of money belonging to the school district.

4. No order in favor of the board of trustees or any member thereof, except for salaries as ~~authorized]~~ **required** by NRS 386.320 ~~[, authorized] or~~ travel expenses and subsistence ~~[of trustees or for services of any trustee as clerk of the board,] as authorized by NRS 386.290,~~ may be drawn.

5. No order for salary for any teacher may be drawn unless the teacher is included in the directory of teachers supplied to the clerk of the board of trustees pursuant to the provisions of NRS 391.045.

6. An order drawn by a clerk of a board of trustees pursuant to subsection 1 is void if not presented for payment within 1 year after the date of issuance.

7. Any order remaining unpaid after the expiration of 1 year, whether outstanding or uncalled for in the office of the county auditor, must be cancelled by the county auditor, who shall immediately notify the county treasurer of the cancellation. The county treasurer shall not pay a warrant presented for payment more than 1 year after the date of issuance of such an order. This subsection does not apply if the board of trustees establishes and administers a separate account pursuant to NRS 354.603.

Sec. 4. Notwithstanding the provisions of NRS 386.320, as amended by section 2 of this act, to the contrary, the salaries of the members of the board of trustees of a school district are not required to be increased pursuant to that section until July 1, 2008.

~~{Sec. 3.}~~ *Sec. 5.* This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 186.

Bill read second time.

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

Amendment No. 281.

SUMMARY—Revises various provisions relating to **economic and energy ~~and~~ development**. (BDR 58-784)

AN ACT relating to ~~energy; revising various provisions governing the portfolio standard; requiring new renewable energy projects to comply with certain requirements; authorizing certain administrative penalties;~~ **economic and energy development; creating the Advisory Board for the Development of the Solar Energy Industry; revising various provisions governing partial abatements of certain taxes by the Commission on Economic Development;** revising various provisions governing the Solar Energy Systems Demonstration Program Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~† To encourage and accelerate the development of new renewable energy projects and to create successful markets for electricity generated by those projects, existing law requires the Public Utilities Commission of Nevada to establish portfolio standards for certain providers of electric service that require the providers to generate, acquire or save a certain amount of electricity each year from portfolio energy systems. (NRS 704.7801-704.7828)~~

~~Section 6 of this bill requires a new renewable energy project to provide information to the Commission regarding the economic benefits that the project is expected to bring to this State. If the Commission authorizes a provider of electric service to enter into a renewable energy contract with the project, the project must, as part of the terms and conditions of the contract, agree to: (1) take all actions that are necessary and reasonable to bring about the expected economic benefits; and (2) pay an administrative penalty if the expected economic benefits do not occur. Sections 1 and 6 of this bill require those administrative penalties to be deposited in the Trust Fund for Renewable Energy and Energy Conservation, establish two new uses for the money in that Fund and provide that the administrative penalties must be used for the two new uses. The two new uses are: (1) investment of the money to develop the renewable energy industry in Nevada; and (2) supporting the efforts of the State of Nevada AFL-CIO to identify potential gaps in the skills of the workforce required for renewable energy development and supporting training efforts to address the gaps.~~

~~Section 7 of this bill requires a new renewable energy project to: (1) provide notice of any potential contracts or positions of employment to the Department of Business and Industry, the State of Nevada AFL-CIO and any other person who requests to receive such notice; and (2) provide, in writing, to any person who seeks but is denied such a contract or position of employment the reasons for the denial. If a project fails to comply with these requirements, a person aggrieved by that failure may bring a civil action against the project for appropriate relief, unless the person's claim is subject to a grievance procedure under the provisions of a collective bargaining agreement.~~

Under existing law, one of the components of the State's energy policy is to encourage, support and accelerate the development of Nevada's renewable energy resources, such as solar energy. (Chapter 701 of NRS) Sections 2-8 of this bill create the Advisory Board for the Development of the Solar Energy Industry and establish its organizational structure and procedures. Sections 2-8 also prescribe the duties of the Advisory Board, which include: (1) working with economic development agencies and officials to develop incentives which may be offered to businesses in the solar energy industry that intend to locate or expand their operations in Nevada; (2) identifying and studying photovoltaic technologies and other emerging solar energy technologies which have the potential to reduce the cost of electricity generated by solar energy systems; and (3) developing and carrying out a program of Solar Energy Challenge Zones.

Existing law authorizes the Commission on Economic Development to approve partial abatements of certain taxes imposed on new or expanded businesses. (NRS 360.750) Sections 9, 10 and 13 of this bill require a business that receives such a partial abatement to: (1) allow the Department of Taxation to conduct audits of the business to determine whether it is in compliance with the requirements for the partial abatement; and (2) consent to the disclosure of the audit reports to the Commission on Economic Development and to the public with certain limited exceptions.

Under the Solar Energy Systems Demonstration Program Act, a certain number of schools which install solar energy systems are entitled to participate in the Demonstration Program and receive portfolio energy credits that may be sold to utilities seeking to comply with the portfolio standards. (Chapter 331, Statutes of Nevada 2003, pp. 1868-71) Section ~~10~~ 11 of this bill increases the number of schools that may participate in the Demonstration Program ~~+~~ and increases the kilowatts of capacity for solar energy systems in schools from 570 kilowatts to 2 megawatts for the years 2007, 2008 and 2009.

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

Delete existing sections 1 through 11 of this bill and replace with the following new sections 1 through 14:

Section 1. Chapter 701 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 sections 2 to 8, 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. "Advisory Board" means the Advisory Board for the Development of the Solar Energy Industry that is created by section 5 of this act.

Sec. 4. "Portfolio standard" has the meaning ascribed to it in NRS 704.7805.

Sec. 5. 1. The Advisory Board for the Development of the Solar Energy Industry is hereby created.

2. The Advisory Board consists of the Lieutenant Governor and six additional members appointed as follows:

(a) Two members appointed by the Lieutenant Governor.

(b) Two members appointed by the Majority Leader of the Senate.

(c) Two members appointed by the Speaker of the Assembly.

3. An appointed member of the Advisory Board must be a citizen of the United States and a resident of this State.

4. After the initial terms, the term of each appointed member of the Advisory Board is 3 years. A vacancy on the Advisory Board must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may be reappointed to the Advisory Board.

5. Except as otherwise provided in this subsection, the appointed members of the Advisory Board serve without compensation and are not entitled to the per diem and travel expenses provided for state officers and employees generally. For each day of attendance at a meeting of the Advisory Board and while engaged in the business of the Advisory Board, a member of the Advisory Board who is an officer or employee of this State or a political subdivision of this State is entitled to receive the per diem and travel expenses provided for state officers and employees generally, paid by his governmental employer.

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

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

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

7. Notwithstanding any other provision of law, a member of the Advisory Board:

(a) Is not disqualified from public employment or holding a public office because of his membership on the Advisory Board; and

(b) Does not forfeit his public office or public employment because of his membership on the Advisory Board.

Sec. 6. 1. The Lieutenant Governor serves as the Chairman of the Advisory Board.

2. The members of the Advisory Board shall select a Vice Chairman from among the appointed members. The Vice Chairman shall perform the duties of the Chairman during any absence of the Chairman. The Vice Chairman serves in that position for a term of 1 year. If a vacancy occurs in the Vice Chairmanship, the vacancy must be filled for the remainder of the unexpired term in the same manner as the original selection.

3. A majority of the members of the Advisory Board constitutes a quorum. A majority of the members present during a quorum may exercise all the power and authority conferred on the Advisory Board.

4. The Advisory Board shall meet at least four times annually and may meet more frequently at the discretion of the Chairman.

5. All meetings of the Advisory Board must be conducted in accordance with the provisions of chapter 241 of NRS.

6. The Office of Energy shall provide the Advisory Board with administrative and clerical support and with such other assistance as may be necessary for the Advisory Board to carry out its duties. Such support and assistance must include, without limitation, making arrangements for facilities, equipment and other services in preparation for and during meetings.

Sec. 7. The Advisory Board shall:

1. Formulate policies and plans to encourage, support and accelerate the development of the solar energy industry in this State.

2. Work with state, regional and local economic development agencies and officials to develop incentives which may be offered to businesses in the solar energy industry that intend to locate or expand their operations in this State.

3. Identify and study photovoltaic technologies and other emerging solar energy technologies which have the potential to reduce the cost of electricity generated by solar energy systems.

4. Take any other actions the Advisory Board deems necessary to promote the development of the solar energy industry in this State.

Sec. 8. 1. The Advisory Board shall develop and carry out a program of Solar Energy Challenge Zones.

2. In developing and carrying out the program, the Advisory Board shall:

(a) Designate at least one Solar Energy Challenge Zone covering, in whole or in part, the Las Vegas Strip and any areas adjacent to the Las

Vegas Strip that are appropriate for inclusion in the Solar Energy Challenge Zone; and

(b) Work with local governments, utilities, businesses, environmental advocates and other interested persons to identify and designate other Solar Energy Challenge Zones in this State.

3. For each Solar Energy Challenge Zone, the Advisory Board shall:

(a) Develop, in cooperation with local governments, utilities, businesses, environmental advocates and other interested persons, a target price per kilowatt-hour for electricity generated from solar energy systems that is significantly less than the prevailing price per kilowatt-hour for electricity generated from such systems; and

(b) Offer that target price in a standard offer contract to any business which is willing to accept the challenge of manufacturing or installing solar energy systems that are able to generate electricity at that target price.

4. The Advisory Board may submit such a standard offer contract to the Public Utilities Commission of Nevada for approval as a renewable energy contract for the purposes of the portfolio standard.

Sec. 9. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Commission on Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750, the agreement with the Commission must provide that the business:

(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement; and

(b) Consents to the disclosure of the audit reports in the manner set forth in this section.

2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Commission on Economic Development.

3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Commission on Economic Development:

(a) Is confidential proprietary information of the business;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:

(a) The audit report provided to the Commission on Economic Development is a public record; and

(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.

5. Before the Executive Director of the Commission on Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:

(a) Is confidential proprietary information of the business;

(b) Is not a public record;

(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and

(d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.

Sec. 10. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which ~~states~~ **must:**

(1) Comply with the requirements of section 9 of this act;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection ~~[The agreement must bind]~~ **; and**

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

↪ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the

period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

9. The Commission on Economic Development:

(a) Shall adopt regulations relating to:

(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

(2) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section. ~~It~~ **and section 9 of this act.**

10. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section. ~~It~~ **and section 9 of this act.**

11. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 11. Section 18 of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 88, is hereby amended to read as follows:

Sec. 18. 1. On or before May 1 of each year, the Public Utilities Commission of Nevada shall:

(a) Review each application nominated by the Committee to ensure that the application meets the requirements of subsection 3 of section 14 of this act; and

(b) From those nominees, select participants for the Demonstration Program for the following program year.

2. ~~The~~ **Except as otherwise provided in subsection 4, the** Public Utilities Commission of Nevada may approve, from among the applications nominated by the Committee, solar energy systems totaling:

(a) For the program year beginning July 1, 2004:

(1) 100 kilowatts of capacity for schools;

- (2) 200 kilowatts of capacity for other public buildings; and
- (3) 200 kilowatts of capacity for private residences and small businesses.
- (b) For the program year beginning July 1, 2005:
 - (1) An additional 570 kilowatts of capacity for schools;
 - (2) An additional 570 kilowatts of capacity for other public buildings;
 and
 - (3) An additional 760 kilowatts of capacity for private residences and small businesses.
- (c) For the program year beginning July 1, 2006:
 - (1) An additional 570 kilowatts of capacity for schools;
 - (2) An additional 570 kilowatts of capacity for other public buildings;
 and
 - (3) An additional 760 kilowatts of capacity for private residences and small businesses.
- (d) For the program year beginning July 1, 2007:
 - (1) An additional ~~570 kilowatts~~ **2 megawatts** of capacity for schools;
 - (2) An additional 570 kilowatts of capacity for other public buildings;
 and
 - (3) An additional 760 kilowatts of capacity for private residences and small businesses.
- (e) For the program year beginning July 1, 2008:
 - (1) An additional ~~570 kilowatts~~ **2 megawatts** of capacity for schools;
 - (2) An additional 570 kilowatts of capacity for other public buildings;
 and
 - (3) An additional 760 kilowatts of capacity for private residences and small businesses.
- (f) For the program year beginning July 1, 2009:
 - (1) An additional ~~570 kilowatts~~ **2 megawatts** of capacity for schools;
 - (2) An additional 570 kilowatts of capacity for other public buildings;
 and
 - (3) An additional 760 kilowatts of capacity for private residences and small businesses.

3. The Public Utilities Commission of Nevada shall notify each nominee of its selections no later than 10 days after the decision is made.

4. To promote the installation of solar energy systems at as many schools as possible, the Public Utilities Commission of Nevada may not approve for use in the Demonstration Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed at a school on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school.

Sec. 12. As soon as practicable on or after July 1, 2007:

1. The Lieutenant Governor shall appoint to the Advisory Board for the Development of the Solar Energy Industry two members whose terms expire on June 30, 2008.

2. The Majority Leader of the Senate shall appoint to the Advisory Board for the Development of the Solar Energy Industry:

- (a) One member whose term expires on June 30, 2009; and
- (b) One member whose term expires on June 30, 2010.

3. The Speaker of the Assembly shall appoint to the Advisory Board for the Development of the Solar Energy Industry:

- (a) One member whose term expires on June 30, 2009; and
- (b) One member whose term expires on June 30, 2010.

Sec. 13. If, on July 1, 2007, the Commission on Economic Development and a business have in effect an agreement for a partial abatement of one or more taxes pursuant to NRS 360.750:

1. The agreement shall be deemed to include by operation of law the provisions required by section 9 of this act; and

2. The provisions of section 9 of this act shall be deemed to apply to the business notwithstanding any contrary provision in the agreement.

Sec. 14. This act becomes effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 328.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 543.

AN ACT relating to elections; revising provisions relating to the powers of the chairman of an election board; providing that the Attorney General and district attorneys have concurrent jurisdiction to enforce the provisions of title 24 of NRS ~~§~~ **upon request of the Secretary of State**; revising provisions relating to requesting and casting an absent ballot for an election; revising the provisions governing a person who helps another register to vote; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a vacancy on an election board occurs on the day of an election and there are no reserve election board officers available, the election board may appoint to the election board a registered voter who is qualified and willing to serve. (NRS 293.225) Section 1 of this bill provides that the county or city clerk is required to appoint a poll manager for each polling place. The county or city clerk or the poll manager will have the authority to appoint any person who is qualified and willing to serve to an election board in the cases of a vacancy occurring on election day or if a need

for more election board officials arises. Additionally, if a polling place is the site of more than one election board, the poll manager may reassign election board officers from one election board to another.

Existing law provides that the Secretary of State is responsible for the execution and enforcement of the laws governing elections in this State. (NRS 293.124) Section 2 of this bill provides that **upon request of the Secretary of State**, the Attorney General and the district attorneys ~~have concurrent jurisdiction to enforce the~~ **may investigate and prosecute violations of** election laws.

Existing law authorizes a registered voter to request an absent ballot for an election. Additionally, certain registered voters are authorized to request an absent ballot for all elections conducted during the year that the request is made. (NRS 293.313) Sections 5-7 and ~~10-13~~ **11-14** of this bill authorize ~~any registered voter~~ **certain registered voters** to request an absent ballot for any election conducted after the request is made.

Existing law provides that it is a felony for certain persons to alter, deface or destroy a completed application to register to vote. (NRS 293.505) Section 8 of this bill revises this provision to provide that it is a felony for such persons to knowingly and willfully alter, deface or destroy or to fail to return to the county clerk a completed application to register to vote.

Section 10 of this bill provides that it is a category B felony to tamper or interfere with, or attempt to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent of influencing the outcome of an election.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The county or city clerk shall appoint a manager for each polling place at which voting will be conducted during an election.

2. The manager for a polling place may:

(a) Be a chairman of one of the election boards for a precinct located at the polling place; and

(b) If the polling place is a site at which two or more election boards will conduct voting, reassign an election board officer from one of the election boards located at the polling place to a different election board located at the polling place.

Sec. 2. NRS 293.124 is hereby amended to read as follows:

293.124 1. The Secretary of State shall serve as the Chief Officer of Elections for this State. As Chief Officer, the Secretary of State is responsible for the execution and enforcement of the provisions of title 24 of NRS and all other provisions of state and federal law relating to elections in this State.

2. ~~The~~ Upon request of the Secretary of State, the Attorney General and the district attorneys of this State ~~have concurrent jurisdiction to~~ may

investigate and prosecute a person who violates a provision of title 24 of NRS and any other provision of state and federal law relating to elections in this State.

3. The Secretary of State shall adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 3. NRS 293.217 is hereby amended to read as follows:

293.217 1. The county clerk of each county shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the county as provided in NRS 293.220 to 293.245, inclusive, and 293.384, **and section 1 of this act** and shall conclude those duties ~~to~~ **not** later than 31 days before the election. The registered voters appointed as election board officers for any precinct or district must not all be of the same political party. No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the county clerk, the sheriff shall:

(a) Appoint a deputy sheriff for each polling place in the county and for the central election board or the absent ballot central counting board; or

(b) Deputize as a deputy sheriff for the election an election board officer of each polling place in the county and for the central election board or the absent ballot central counting board. The deputized officer shall receive no additional compensation for his services rendered as a deputy sheriff during the election for which he is deputized.

↳ Deputy sheriffs so appointed and deputized shall preserve order during hours of voting and attend closing of the polls.

2. The county clerk may appoint a trainee for the position of election board officer as set forth in NRS 293.2175.

Sec. 4. NRS 293.225 is hereby amended to read as follows:

293.225 1. Members of election boards continue as such from the day before the day of the election ~~to~~ until the time for filing contests of the election has expired.

2. Each member of an election board is subject to call by the board of county commissioners or city council to correct any errors discovered during the canvass of votes by the board of county commissioners or city council.

3. Reserve election board officers must be appointed by the county or city clerk, if practicable, to fill any vacancy which occurs on the day of the election, and the reserve officers must be compensated if they serve at the polls.

4. If a vacancy occurs in any election board on the day of the election and no reserves are available, the **county clerk, city clerk or poll manager of the polling place where the election board is located** may appoint, at the polling place, any ~~registered voter~~ **person** who is **qualified and** willing to serve and satisfies the ~~election board~~ **county clerk, city clerk or poll manager** that he possesses the qualifications required to perform the services required.

5. *If the county clerk, city clerk or poll manager of the polling place where an election board is located determines that additional election board officers are needed on the day of the election and no reserves are available, the county clerk, city clerk or poll manager may appoint, at the polling place, any person who is qualified and willing to serve and satisfies the county clerk, city clerk or poll manager that he possesses the qualifications required to perform the services required.*

Sec. 5. NRS 293.313 is hereby amended to read as follows:

293.313 1. Except as otherwise provided in NRS 293.272 and 293.502, a registered voter who provides sufficient written notice to the county clerk may vote an absent ballot as provided in this chapter.

2. A registered voter ~~{who:~~

~~(a) Is at least 65 years of age; or~~

~~(b) Has a physical disability or condition which substantially impairs his ability to go to the polling place;~~

~~→} who is at least 65 years of age or has a physical disability or condition which substantially impairs his ability to go to the polling place may request an absent ballot for ~~{all}~~ :~~

~~(a) The election immediately following the date on which the county clerk receives the ballot; or~~

~~(b) All elections held ~~{during the year he requests}~~ after he submits the request for an absent ballot.~~

3. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot which is signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State which is completed and signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

4. A county clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as a request for an absent ballot for the two primary and general elections immediately following the date on which the county clerk received the request.

5. *If a registered voter who has a physical disability requests an absent ballot pursuant to paragraph (b) of subsection 2, the county clerk may, every year after an absent ballot is issued to the registered voter, require the registered voter to submit a statement confirming that the registered voter continues to have a physical disability or condition which substantially impairs his ability to go to the polling place.*

6. *A county clerk shall not issue an absent ballot for future elections to a registered voter who requests an absent ballot pursuant to paragraph (b) of subsection 2 if:*

(a) The registered voter does not submit to the county clerk the statement described in subsection 5 or such statement indicates that the registered voter is no longer physically disabled, if applicable;

(b) The registered voter applies to vote in person pursuant to NRS 293.330;

(c) The registered voter provides written notice to the county clerk that the registered voter no longer wishes to receive an absentee ballot;

(d) An absent ballot mailed to a registered voter is returned as undeliverable to the county clerk; or

(e) The voter's registration has been cancelled.

7. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 6. NRS 293.315 is hereby amended to read as follows:

293.315 1. A registered voter referred to in NRS 293.313 may, at any time before 5 p.m. on the seventh calendar day preceding any election, make an application to that clerk for an absent voter's ballot ~~{ }~~ **for that election.** The application must be made available for public inspection.

2. When the voter has identified himself to the satisfaction of the clerk, he is entitled to receive the appropriate ballot or ballots, but only for his own use.

3. A county clerk who allows a person to copy information from an application for an absent ballot is immune from any civil or criminal liability for any damage caused by the distribution of that information, unless he knowingly and willingly allows a person who intends to use the information to further an unlawful act to copy such information.

Sec. 7. NRS 293.3165 is hereby amended to read as follows:

293.3165 1. A registered voter who, because of a physical disability, is unable to mark or sign a ballot or use a voting device without assistance may submit a written statement to the appropriate county clerk requesting that he receive an absent ballot for each election conducted ~~{during the period specified in subsection 3.}~~ **after he submits the request for an absent ballot.**

2. A written statement submitted pursuant to subsection 1 must:

(a) Include a statement from a physician licensed in this State certifying that the registered voter is a person with a physical disability and, because of the physical disability, he is unable to mark or sign a ballot or use a voting device without assistance;

(b) Designate the person who will assist the registered voter in marking and signing the absent ballot on behalf of the registered voter; and

(c) Include the name, address and signature of the person designated pursuant to paragraph (b).

3. Upon receipt of a written statement submitted by a registered voter pursuant to subsection 1, the county clerk shall, if the statement includes the

information required pursuant to subsection 2, issue an absent ballot to the registered voter for each election that is conducted ~~{during the year immediately succeeding}~~ *after* the date the written statement is submitted to the county clerk.

4. To determine whether a registered voter is entitled to receive an absent ballot pursuant to this section, the county clerk may, every year after an absent ballot is issued to a registered voter pursuant to subsection 3, require the registered voter to submit a statement from a licensed physician as specified in paragraph (a) of subsection 2. If a statement from a physician licensed in this State submitted pursuant to this subsection indicates that the registered voter is no longer physically disabled, the county clerk shall not issue an absent ballot to the registered voter pursuant to this section.

5. A person designated pursuant to paragraph (b) of subsection 2 may, on behalf of and at the direction of the registered voter, mark and sign an absent ballot issued to the registered voter pursuant to the provisions of this section. If the person marks and signs the ballot, the person shall indicate next to his signature that the ballot has been marked and signed on behalf of the registered voter.

6. The procedure authorized pursuant to this section is subject to all other provisions of this chapter relating to voting by absent ballot to the extent that those provisions are not inconsistent with the provisions of this section.

Sec. 8. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform his duties as the county clerk may direct.

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his possession five or more completed applications to register to vote, he shall forward them to the county clerk, but in no case may he hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his possession immediately after the fifth Sunday preceding an election. Within 5 days after the fifth Sunday preceding any general election or general city election, a field registrar shall return all unused applications in his possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Delegate any of his duties to another person; or
- (b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself out to be or attempt to exercise the duties of a field registrar unless he has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Solicit a vote for or against a particular question or candidate;
- (b) Speak to a voter on the subject of marking his ballot for or against a particular question or candidate; or
- (c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,
↪ while he is registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, he shall issue a receipt to the field registrar. The receipt must include:

- (a) The number of persons registered; and
- (b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or
- (b) Register a person who fails to provide satisfactory proof of identification and the address at which he actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

(a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his name on the duplicate copy or receipt retained by the voter upon completion of the form;

~~and~~

(b) Shall not *knowingly and willfully* alter, deface or destroy an application to register to vote that has been signed by an elector except to

correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required []; *and*

(c) Shall not knowingly and willfully fail to comply with the requirements of subsection 4 or 5 or subsection 3 of NRS 293.504 or NRS 293.5235 with regard to the forwarding of a completed application to register to vote to a county clerk.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 9. ~~[NRS 293.507 is hereby amended to read as follows:~~

~~293.507 1. The Secretary of State shall prescribe:~~

~~(a) A standard form for applications to register to vote; and~~

~~(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer.~~

~~2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.~~

~~3. Each form for an application to register to vote must include a:~~

~~(a) Unique control number assigned by the Secretary of State; and~~

~~(b) Receipt which:~~

~~(1) Includes a space for a person assisting a voter in completing the form to enter his name; and~~

~~(2) May be retained by the applicant upon completion of the form.~~

~~4. The form for an application to register to vote must include:~~

~~(a) A line for use by the county clerk to enter:~~

~~(1) The number indicated on the voter's current and valid driver's license issued by the Department of Motor Vehicles, if the voter has such a driver's license;~~

~~(2) The last four digits of the voter's social security number, if the voter does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or~~

~~(3) The number issued to the voter pursuant to subsection 5, if the voter does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.~~

~~(b) A line on which to enter the address at which the voter actually resides, as set forth in NRS 293.486.~~

~~(c) A notice that the voter may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.~~

~~(d) A line on which to enter an address at which the voter may receive mail, including, without limitation, a post office box or general delivery.~~

~~((e) A line on which the voter may indicate that the voter submits a request for a permanent absent ballot.)~~

~~5. If a voter does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the voter shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the voter which must be the same number as the unique identifier assigned to the voter for purposes of the statewide voter registration list.~~

~~6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5. (Deleted by amendment.)~~

Sec. 10. NRS 293.755 is hereby amended to read as follows:

293.755 1. A person who tampers or interferes with, or attempts to tamper or interfere with a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. **A person who tampers or interferes with, or attempts to tamper or interfere with a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent of influencing the outcome of an election 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 10 years.**

3. The county or city clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

~~{Sec. 10.}~~ **Sec. 11.** NRS 293C.220 is hereby amended to read as follows:

293C.220 1. The city clerk shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the city as provided in NRS 293.225, 293.227, 293C.227 to 293C.250, inclusive, and 293C.382, **and section 1 of this act** and shall conclude those duties not later than 31 days before the election. No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the city clerk, the chief law enforcement officer of the city shall:

(a) Appoint an officer for each polling place in the city and for the central election board or the absent ballot central counting board; or

(b) Deputize, as an officer for the election, an election board officer for each polling place and for the central election board or the absent ballot central counting board. The deputized officer may not receive any additional compensation for the services he provides as an officer during the election for which he is deputized.

➔ Officers so appointed and deputized shall preserve order during hours of voting and attend the closing of the polls.

2. The city clerk may appoint a trainee for the position of election board officer as set forth in NRS 293C.222.

~~{Sec. 11}~~ **Sec. 12.** NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.

2. A registered voter ~~{who-~~

~~(a) Is at least 65 years of age; or~~

~~(b) Has a physical disability or condition that substantially impairs his ability to go to the polling place,~~

~~↔} who is at least 65 years of age or has a physical disability or condition which substantially impairs his ability to go to the polling place~~ may

request an absent ballot for ~~{all}~~ :

(a) The election immediately following the date on which the city clerk receives the request; or

(b) All elections held ~~{during the year he requests}~~ after he submits the request for an absent ballot.

3. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot that is signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State that is completed and signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

4. A city clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as:

(a) A request for the primary city election and the general city election unless otherwise specified in the request; and

(b) A request for an absent ballot for the two primary and general elections immediately following the date on which the city clerk received the request.

5. *If a registered voter who has a physical disability requests an absent ballot pursuant to paragraph (b) of subsection 2, the city clerk may, every year after an absent ballot is issued to the registered voter, require the registered voter to submit a statement confirming that the registered voter continues to have a physical disability or condition which substantially impairs his ability to go to the polling place.*

6. *A city clerk shall not issue an absent ballot for future elections to a registered voter who requests an absent ballot pursuant to paragraph (b) of subsection 2 if:*

(a) The registered voter does not submit to the city clerk the statement described in subsection 5 or such statement indicates that the registered voter is no longer physically disabled, if applicable;

(b) The registered voter applies to vote in person pursuant to NRS 293C.330;

(c) The registered voter provides written notice to the city clerk that the registered voter no longer wishes to receive an absentee ballot;

(d) An absent ballot mailed to a registered voter is returned as undeliverable to the city clerk; or

(e) The voter's registration has been cancelled.

7. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates any provision of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

~~{Sec. 12.}~~ **Sec. 13.** NRS 293C.312 is hereby amended to read as follows:

293C.312 1. A registered voter referred to in NRS 293C.310 may, at any time before 5 p.m. on the seventh calendar day preceding any election, make an application to the city clerk for an absent voter's ballot ~~{ }~~ **for that election.** The application must be made available for public inspection.

2. When the voter has identified himself to the satisfaction of the city clerk, he is entitled to receive the appropriate ballot or ballots, but only for his own use.

3. A city clerk who allows a person to copy information from an application for an absent ballot is immune from any civil or criminal liability for any damage caused by the distribution of that information, unless he knowingly and willingly allows a person who intends to use the information to further an unlawful act to copy the information.

~~{Sec. 13.}~~ **Sec. 14.** NRS 293C.318 is hereby amended to read as follows:

293C.318 1. A registered voter who, because of a physical disability, is unable to mark or sign a ballot or use a voting device without assistance may submit a written statement to the appropriate city clerk requesting that he receive an absent ballot for each city election conducted ~~{during the period specified in subsection 3.}~~ **after he submits the request for an absent ballot.**

2. A written statement submitted pursuant to subsection 1 must:

(a) Include a statement from a physician licensed in this State certifying that the registered voter is a person with a physical disability and, because of the physical disability, he is unable to mark or sign a ballot or use a voting device without assistance;

(b) Designate the person who will assist the registered voter in marking and signing the absent ballot on behalf of the registered voter; and

(c) Include the name, address and signature of the person designated pursuant to paragraph (b).

3. Upon receipt of a written statement submitted by a registered voter pursuant to subsection 1, the city clerk shall, if the statement includes the information required pursuant to subsection 2, issue an absent ballot to the

registered voter for each city election that is conducted ~~during the year immediately succeeding~~ *after* the date the written statement is submitted to the city clerk.

4. To determine whether a registered voter is entitled to receive an absent ballot pursuant to this section, the city clerk may, every year after an absent ballot is issued to a registered voter pursuant to subsection 3, require the registered voter to submit a statement from a licensed physician as specified in paragraph (a) of subsection 2. If a statement from a physician licensed in this State submitted pursuant to this subsection indicates that the registered voter is no longer physically disabled, the city clerk shall not issue an absent ballot to the registered voter pursuant to this section.

5. A person designated pursuant to paragraph (b) of subsection 2 may, on behalf of and at the direction of the registered voter, mark and sign an absent ballot issued to the registered voter pursuant to the provisions of this section. If the person marks and signs the ballot, the person shall indicate next to his signature that the ballot has been marked and signed on behalf of the registered voter.

6. The procedure authorized pursuant to this section is subject to all other provisions of this chapter relating to voting by absent ballot to the extent that those provisions are not inconsistent with the provisions of this section.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed 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. 474.

AN ACT relating to professions; providing ~~in skeleton form~~ for the licensing and regulation of **clinical** professional counselors and ~~advanced~~ **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 ~~advanced~~ **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 ~~3 and 4~~ **6 and 7** of this bill provide definitions for the terms ~~“practice of professional counseling” and “~~**clinical** professional counselor ~~.”~~ **“ and “practice of clinical professional counseling.”** Sections ~~5 and 6~~ **8 and 9** of this bill establish the requirements for a license to practice as a

clinical professional counselor. Sections ~~{7-11, 13-25 and 27-29}~~ **10-14, 16-28 and 30-32** of this bill amend certain provisions of chapter 641A of NRS to include **clinical** professional counselors under the regulation of the Board of Examiners for Marriage and Family Therapists ~~{}~~ **and Clinical Professional Counselors**. Section ~~{12}~~ **15** of this bill increases the membership of the Board of Examiners for Marriage and Family Therapists **and Clinical Professional Counselors** from six to eight members. Section ~~{13}~~ **16** of this bill requires that two members of the Board must be licensed **clinical** professional counselors. Section ~~{26}~~ **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 ~~{34}~~ **36** of this bill establishes the requirements for the issuance of a license as ~~{an advanced}~~ **a clinical** alcohol and drug abuse counselor. Section ~~{32}~~ **37** of this bill establishes the requirements for ~~{a license as an advanced}~~ **certification as a clinical** alcohol and drug abuse counselor intern. Section ~~{33}~~ **38** of this bill establishes the scope of practice of ~~{an advanced}~~ **a clinical** alcohol and drug abuse counselor and the duration of his license. Section ~~{36}~~ **45** of this bill revises the definition of the “practice of counseling alcohol and drug abusers.” Section ~~{38}~~ **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 of this bill include a clinical professional counselor in the definition of the term “provider of health care.”** Sections ~~{40-42}~~ **72, 73 and 78** of this bill require a clinical professional 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 ~~{43-46}~~ **92-99** of this bill require reimbursement for services provided by a licensed **clinical** professional counselor or ~~{advanced}~~ **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~~ 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.

~~Section 1.~~ **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 pursuant to chapter 641A of NRS;

5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;

~~6.~~ 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. 2.}~~ Sec. 5. Chapter 641A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{3 to 6.}~~ 6 to 9, inclusive, of this act.

~~{Sec. 3.}~~ Sec. 6. ~~{1.—“Practice of 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, behavioral, educational and career related 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; or~~

~~(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions.}~~

“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. 4.}~~ Sec. 7. ~~{“Professional counselor” means a person who describes himself or his services to the public by any title or description which incorporates the term “professional counselor” and under such a title offers to provide or provides services to any person.}~~

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.

~~{Sec. 5.}~~ 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 ~~{counseling in a program approved by the Council for Accreditation of Counseling and Related Educational Programs of the American Counseling Association;}~~ an accredited program for mental health counseling; or

(c) Completed other education and training which is deemed equivalent by the Board;

5. Has ~~{at}~~ :

(a) At least ~~{1 year}~~ 2 years of postgraduate experience in professional counseling ~~{deemed satisfactory to the Board;}~~ ; and

(b) At least 3,000 hours of supervised experience in professional counseling, 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. 6.}~~ 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 Counselor Examination or 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.*

~~{Sec. 7.}~~ *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. 8.}~~ *Sec. 11.* NRS 641A.020 is hereby amended to read as follows:

641A.020 As used in this chapter, unless the context otherwise requires, words and terms defined in NRS 641A.030 to 641A.080, inclusive, *and sections ~~{3 and 4}~~ 6 and 7 of this act* have the meanings assigned to them in ~~{such}~~ *those* sections.

~~{Sec. 9.}~~ *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. 10.}~~ *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.*

~~{Sec. 11.}~~ *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* by the Board.

~~{Sec. 12.}~~ *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. 13.}~~ *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. 14.~~ **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. 15.~~ **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. 16.~~ **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. 17.~~ **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. 18.}~~ **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. 19.]~~ **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. 20.]~~ **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 a written examination 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 and Family Therapy 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. 21.]~~ **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. 22.~~ **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~~ *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. 23.~~ **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 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. 24.}~~ **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. 25.}~~ **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* 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* 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 to practice clinical professional counseling.*

2. For the purposes of this section:

(a) Every *marriage and family therapist or clinical professional counselor* 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* 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* to pay the cost of the examination.

~~Sec. 26.~~ **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. 27.~~ **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," ~~[-]~~ "marital consultant," ~~[-]~~ *"clinical professional counselor"* 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. 28.~~ **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* 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. 29.}~~ **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* 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*, 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 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. 30.~~ **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. 31.~~ **Sec. 36.** ~~The Board shall issue a license as ~~an advanced~~~~ **a clinical 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 ~~++~~ that includes comprehensive coursework in clinical mental health, including the diagnosis of mental health disorders;

(d) 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) Has completed a program that:

(1) Is approved by the Board ~~consisting~~; and

(2) Consists of at least 2,000 hours of ~~supervised~~ 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) Passes the written and oral examinations 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 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 marriage and family therapist pursuant to chapter 641A of NRS; or

(3) 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) 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 the information required to complete an application for a license.

3. 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. 32.}~~ Sec. 37. 1. The Board shall issue a ~~{license}~~ certificate as ~~{an advanced}~~ 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) Has a high school diploma or a general equivalency diploma;~~

~~(d)~~ Pays the fees required pursuant to NRS 641C.470;

~~(e)~~ (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}~~

~~(f)~~ (e) Submits all the information required to complete an application for a ~~{license}~~ certificate.

2. A ~~{license as an advanced}~~ 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 ~~{license}~~ certificate upon good cause shown by the holder of the ~~{license}~~ certificate.

3. A ~~{licensed}~~ certified clinical alcohol and drug abuse counselor intern may, under the supervision of a licensed ~~{advanced}~~ 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. 33.}~~ Sec. 38. 1. A license as ~~{an advanced}~~ a clinical alcohol and drug abuse counselor is valid for ~~{2 years}~~ 1 year and may be renewed.

2. A licensed ~~advanced~~ 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) ~~Identify, evaluate, diagnose and treat a mentally ill person who is an alcoholic or abuser of drugs; and~~

~~(d) Supervise licensed and 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 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. 34.~~ **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 an advanced~~ or a clinical alcohol and drug abuse counselor ~~for an advanced alcohol and drug abuse counselor intern~~ pursuant to the provisions of this chapter.

~~Sec. 35.~~ **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 an advanced~~ or a clinical alcohol and

~~drug abuse counselor for an advanced alcohol and drug abuse counselor intern]~~ pursuant to the provisions of this chapter.

~~[Sec. 36.]~~ **Sec. 45.** ~~[NRS 641C.100 is hereby amended to read as follows:~~

~~641C.100 1. "Practice of counseling alcohol and drug abusers" means [the]~~

~~(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 [.] ; or~~

~~(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.]~~

(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 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~~ *and licenses as clinical alcohol and drug abuse counselors.*

~~Sec. 37.~~ **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 license ~~as an advanced alcohol and drug abuse counselor~~ or ~~for a license or~~ 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~~ **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~~ **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 ~~it~~ :

(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; ~~for~~

~~(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. 38.]~~ **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)~~ (3) A marriage and family therapist pursuant to chapter 641A of NRS;

~~(4)~~ (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; ~~to~~

~~(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. 39.]~~ **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 <i>an advanced</i> <i>a clinical alcohol and drug abuse counselor</i> or a certificate as a problem gambling counselor.....	300
For the renewal of a certificate as <i>a clinical alcohol and drug abuse counselor intern</i> , 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~~ ***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.

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 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; ~~for~~

5. A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS, ~~or~~ 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) ~~Am~~ 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; ~~for~~

(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 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. 40.}~~ **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 ~~for~~ 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. 41.~~ **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, *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, *clinical professional counselor*, chiropractor or doctor of Oriental medicine in any form.

~~Sec. 42.~~ **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 counselor,** alcohol ~~for~~ **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 ~~and~~;

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ~~and~~; **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; ~~for~~
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ~~for~~; *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; ~~for~~
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ~~44~~; 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) ~~Ann~~ **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

~~(h)~~ (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. 43.}~~ **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,* ~~*for licensed advanced alcohol and drug abuse counselor,*~~ the insured is entitled to reimbursement for treatment by a marriage and family therapist ~~{,}~~ *or clinical professional counselor* ~~*for advanced alcohol and drug abuse counselor,*~~ who is licensed pursuant to chapter 641A ~~*for 641C*~~ 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. 44.}~~ **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**, ~~for licensed advanced alcohol and drug abuse counselor,~~ the insured is entitled to reimbursement for treatment by a marriage and family therapist ~~+~~ **or clinical professional counselor** ~~for advanced alcohol and drug abuse counselor~~ who is licensed pursuant to chapter 641A ~~for 641C~~ 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. 45.}~~ **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**, ~~for licensed advanced alcohol and drug abuse counselor,~~ the insured is entitled to reimbursement for treatment by a marriage and family therapist ~~+~~ **or clinical professional counselor** ~~for advanced alcohol and drug abuse counselor~~ who is licensed pursuant to chapter 641A ~~for 641C~~ 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. 46.}~~ **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**, ~~for licensed advanced alcohol and drug abuse counselor,~~ the insured is entitled to reimbursement for treatment by a marriage and family therapist ~~{,}~~ **or clinical professional counselor** ~~for advanced alcohol and drug abuse counselor~~ who is licensed pursuant to chapter 641A ~~for 641C~~ of NRS.

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. 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. 47,}~~ **Sec. 101. 1. This section and sections 1 to ~~{17,}~~ 20, inclusive, and ~~{19 to 46,}~~ 22 to 100, inclusive, of this act become effective on July 1, 2007, for the ~~{purpose}~~ purposes of appointing members to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors and adopting regulations to carry out the amendatory provisions of this act, and on January 1, 2008, for all other purposes.**

2. Section ~~{17}~~ 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. Section ~~{18}~~ 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. Sections ~~{18 and 24}~~ 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.

Assemblyman Conklin moved the adoption of the amendment.

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. 600.

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 ~~fees~~ **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 ~~or~~ **must not exceed 35 days and the original term of a high-interest loan must not exceed 30 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 ~~licensee~~ 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, 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. ~~For~~

1. Except as otherwise provided in this section, for the purposes of ~~this chapter, in~~ 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 ~~licensee~~ lender must be included in calculating the annual percentage rate ~~of~~, 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.

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. ~~Notwithstanding any other provision of this chapter to the contrary,~~

1. Except as otherwise provided in this chapter, the original term of a ~~deferred~~:

(a) Deferred deposit loan ~~for high interest~~ 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. 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 ~~[predominate]~~ material 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 A licensee shall not make more than one deferred deposit 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. The customer is seeking multiple loans that do not exceed the limits set forth in NRS 604A.425;

2. The licensee charges the same or a lower fee or service charge if it is a deferred deposit loan, or the same or a lower annual percentage rate of interest if it is a high-interest loan, for any additional loans as he charged for the initial loan;

3. 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. If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment ~~or~~ 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~~ or electronic transfer of money that failed.

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~~ 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.

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 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 ~~predominate~~ 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~~ 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 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 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 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 1, 2007.

Sec. 34. This act becomes effective on July 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.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 506.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 461.

SUMMARY ~~[Eliminating the deadline for registering to vote in an election.]~~ **Requires the Secretary of State and the county clerks of each county to study the feasibility of changing the deadline for registering to vote in an election.** (BDR ~~[24-1338]~~ S-1338)

AN ACT relating to elections; ~~[eliminating the deadline for registering to vote in an election;]~~ **requiring the Secretary of State and the county clerks of each county to study the feasibility of changing the deadline for registering to vote in an election;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the period for registering to vote at an election ends at 9 p.m. on the third Tuesday preceding an election. For the period beginning on the fifth Sunday preceding an election and ending on the third Tuesday preceding an election, an elector may register to vote only by appearing in person at the office of the county clerk. (NRS 293.560) This bill ~~[eliminates the deadline for registering to vote for an election and provides that a person may register to vote at the office of the county or city clerk from the period beginning on the fifth Sunday preceding an election until the polls close on election day.]~~ **requires the Secretary of State and the county clerks for each county jointly to study the feasibility of changing the deadline for registering to vote to any date closer to the date of the election up to and including election day. This bill also requires the Secretary of State and the county clerks to submit a report concerning the results of the study to the 75th Regular Session of the Nevada Legislature.**

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

Delete existing sections 1 through 11 of this bill and replace with the following new sections 1 and 2:

Section 1. 1. The Secretary of State and the county clerk of each county jointly shall study the feasibility of changing the deadline for registration of voters to allow qualified electors to register to vote in an election on any date closer to the election up to and including the date of the election;

2. The study conducted pursuant to subsection 1 must include, without limitation, an analysis of:

(a) The potential for logistical and technical problems in conducting an election if the deadline for the registration of voters is changed;

(b) Any fiscal impact that would be likely to result from changing the deadline for the registration of voters;

(c) The occurrence of voter fraud that would be likely to result from changing the deadline for the registration of voters;

(d) The impact on voter turnout that would be likely to result from changing the deadline for the registration of voters; and

(e) A review of the methods by which other states have provided for the registration of voters on the date of the election.

3. On or before February 1, 2009, the Secretary of State and the county clerks of each county jointly shall submit a written report of the results of the study conducted pursuant to subsection 1 to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

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

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 605.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 513.

AN ACT relating to ethics in government; ~~requiring the Commission on Ethics to provide a course for certain elected public officers and lobbyists about relevant ethics laws; making various changes concerning the use of governmental time, property, equipment or other facility by public officers or employees and Legislators; increasing the civil penalties for willful violation of ethics laws;~~ requiring candidates and elected public officers to obtain the approval of the Secretary of State before establishing a legal defense fund; limiting contributions to a legal defense fund; requiring the filing of a report concerning the contributions to and disbursements from a legal defense fund; enacting various provisions relating to legal defense

funds; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{ Section 1 of this bill requires the Commission on Ethics to establish a course for elected public officers and lobbyists about relevant provisions of law concerning ethics with which they must comply. (NRS 281.471) Section 4 of this bill requires a person who is elected to office or appointed to an elected office to complete the course not later than 2 months after his election or appointment. (NRS 281.552) Section 5 of this bill requires a person who registers as a lobbyist to complete the course not later than 2 weeks after such registration. A person is not required to complete the course more than one time.~~

~~Section 2 of this bill prohibits a public officer, public employee and Legislators from using governmental time, property, equipment or other facility for an activity relating to a political campaign or the preparation of a campaign related report required pursuant to chapter 294A of NRS. Legislators and other elected public officers are further prohibited from using governmental time, property, equipment or other facility for the preparation of a statement of financial disclosure. (NRS 281.481)~~

~~Section 3 of this bill increases the civil penalties that the Commission on Ethics may impose on a public officer or employee or former public officer by \$5,000 for willful violations of the ethics laws.~~

Section 10 of this bill prohibits a candidate or elected public officer from establishing a legal defense fund, unless certain requirements are met. Section 10 also requires, before establishing a legal defense fund, a candidate or elected public officer to obtain the approval of the Secretary of State. To obtain this approval, the candidate or elected public officer must submit to the Secretary of State a "Statement of Purpose," which identifies certain information about the legal defense fund. The Secretary of State must approve the establishment of the legal defense fund if the legal defense fund complies with the requirements of sections 10-16 of this bill and the investigation, claim, case or proceeding for which the fund was established arises from or is directly related to the campaign of the candidate or the campaign or official duties or activities of the public officer.

Sections 11 and 12 of this bill establish certain requirements relating to the operation of a legal defense fund. Section 11 requires the legal defense fund to be managed by a trustee. The trustee must not be a person who has authority over the employees of the candidate or elected public officer who established the fund. Section 12 prohibits the payment of any expenses which do not arise from or are not directly related to the investigation, claim, case or proceeding for which the fund was established.

Section 13 of this bill prohibits a person from making a contribution of more than \$10,000 to a legal defense fund. In addition, section 13

prohibits a candidate, elected public officer or trustee of a legal defense fund from soliciting or accepting a contribution of more than \$10,000 to a legal defense fund. A person who willfully violates the provisions of section 13 is guilty of a category E felony.

Section 14 of this bill establishes disclosure requirements for a candidate or elected public officer who has established a legal defense fund. A candidate or public officer who has established a legal defense fund must file a quarterly report which discloses certain information concerning contributions to and disbursements from the legal defense fund. Each quarterly report must be signed by the candidate or elected public officer under penalty of perjury.

Section 15 of this bill requires a candidate or elected public officer to dissolve a legal defense fund within 90 days after the conclusion of the investigation, claim, case or proceeding for which it was established and file a notice of dissolution with the Secretary of State. The notice of dissolution must include a statement that the legal defense fund has been dissolved and must disclose the manner in which the legal defense fund disposed of any contributions that were not spent or committed for expenditure.

Section 16 of this bill provides that any contribution to a legal defense fund which has not been spent or committed for expenditure must be returned to contributors, donated to a tax-exempt nonprofit entity, donated to the State General Fund or disposed of in any combination of these methods.

Section 2 of this bill provides that an elected public officer commits a violation of the code of ethics if the elected public officer violates the provisions of sections 10-16 of this bill. (NRS 281.481) Section 20 of this bill provides that a person who violates the provisions of sections 10-16 is subject to a civil penalty of not more than \$5,000 for each violation.

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

Section 1. ~~NRS 281.471 is hereby amended to read as follows:~~

~~281.471 The Commission shall~~

~~1. Adopt procedural regulations:~~

~~(a) To facilitate the receipt of inquiries by the Commission;~~

~~(b) For the filing of a request for an opinion with the Commission;~~

~~(c) For the withdrawal of a request for an opinion by the person who filed the request; and~~

~~(d) To facilitate the prompt rendition of opinions by the Commission.~~

~~2. Prescribe, by regulation, forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281.559 and forms and procedures for the submission of statements of acknowledgment filed by public officers~~

~~pursuant to NRS 281.552, maintain files of such statements and make the statements available for public inspection.~~

~~3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.~~

~~4. Except as otherwise provided in NRS 281.559, inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.~~

~~5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.~~

~~6. Publish a manual for the use of public officers and employees that contains:~~

~~(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281.511, for the future guidance of all persons concerned with ethical standards in government;~~

~~(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281.511; and~~

~~(c) An abstract of the requirements of this chapter.~~

~~7. The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.~~

~~7. Establish and provide a course for public officers who are elected or appointed to an elected public office about the relevant provisions of law concerning ethics with which they must comply. Such a course must be offered at least two times each month for 2 months after each election at which public officers are elected and at such other times as may be necessary. The Commission may charge a fee to cover the cost of providing such a course.~~

~~8. Establish and provide a course for lobbyists about the relevant provisions of law concerning ethics with which they must comply. Such a course must be offered at least two times each month for the month preceding a legislative session and the two months immediately following and at such other times as may be necessary. The Commission may charge a fee to cover the cost of providing such a course.] (Deleted by amendment.)~~

Sec. 2. NRS 281.481 is hereby amended to read as follows:

281.481 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant

pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501.

(b) "Unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This ~~Except as otherwise provided in subsection 9, this~~ subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of his public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

↪ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A member of the Legislature shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other

person. ~~This [Except as otherwise provided in subsection 9, this]~~ paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of his public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or

(2) Where such service has otherwise been established as legislative policy.

~~9. A public officer or employee or Legislator shall not use governmental time, property, equipment or other facility for an activity relating to a political campaign or the preparation of a report required pursuant to chapter 294A of NRS. A Legislator or other elected public officer further shall not use governmental time, property, equipment or other facility for an activity relating to the preparation of a statement of financial disclosure required pursuant to NRS 281.559 to 281.581, inclusive.~~

~~10.~~ A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

~~10. ~~11.~~~~ A public officer or employee shall not seek other employment or contracts through the use of his official position.

11. A public officer who was elected to the office for which he is serving shall not establish or maintain a legal defense fund for the direct or indirect benefit of the public officer, or solicit or accept contributions to a legal defense fund which is established or maintained for the direct or indirect benefit of the public officer, unless the public officer complies with the provisions of sections 10 to 16, inclusive, of this act. As used in this subsection, "legal defense fund" has the meaning ascribed to it in section 9 of this act.

Sec. 3. ~~[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 281.552 is hereby amended to read as follows:~~

~~281.552 1. As soon as practicable, but not later than 2 months after a person is elected or appointed to an elected public office, the person must complete a course concerning ethics which is provided by the Commission pursuant to NRS 281.471. A person is not required to complete the course more than one time for the public office for which he has been elected or appointed.~~

~~2. Every public officer shall acknowledge that he has [received,]—~~

~~(a) Completed the course required pursuant to subsection 1 if he has not previously acknowledged completion; and~~

~~(b) Received, read and understands the statutory ethical standards.~~

~~3. The acknowledgment required pursuant to subsection 2 must be on a form prescribed by the Commission and must accompany the first statement of financial disclosure that the public officer is required to file with the Commission pursuant to NRS 281.559 or the Secretary of State pursuant to NRS 281.561.~~

~~[2.] 4. The Commission and the Secretary of State shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.~~

~~[3.] 5. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.] (Deleted by amendment.)~~

Sec. 5. ~~[Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. As soon as practicable, but not later than 2 weeks after a person files a registration statement pursuant to NRS 218.918, the person must complete a course concerning ethics which is provided by the Commission on Ethics pursuant to NRS 281.471.~~

~~2. A person is not required to complete the course more than one time.]~~
 (Deleted by amendment.)

Sec. 6. ~~[NRS 218.900 is hereby amended to read as follows:
 218.900 NRS 218.900 to 218.944, inclusive, and section 5 of this act
 may be cited as the Nevada Lobbying Disclosure Act.]~~ (Deleted by
 amendment.)

Sec. 7. ~~[NRS 218.904 is hereby amended to read as follows:
 218.904 As used in NRS 218.900 to 218.944, inclusive, and section 5 of
 this act, the terms defined in NRS 218.905 to 218.916, inclusive, have the
 meanings ascribed to them in those sections.]~~ (Deleted by amendment.)

Sec. 8. Chapter 294A of NRS is hereby amended by adding thereto
 the provisions set forth as sections 9 to 16, inclusive, of this act.

Sec. 9. "Legal defense fund" means a trust, account or fund
 established for the payment of legal expenses incurred by a candidate or
 public officer as a result of defending himself in a civil, criminal or
 administrative proceeding.

Sec. 10. 1. A candidate or public officer shall not establish a legal
 defense fund, except in accordance with the provisions of this section.

2. Before establishing a legal defense fund, a candidate or public
 officer must obtain the approval of the Secretary of State. To obtain the
 approval of the Secretary of State, the candidate or public officer must
 submit to the Secretary of State a statement of purpose. The statement of
 purpose must identify:

- (a) The name of the legal defense fund;
- (b) The name, address and telephone number of the candidate or public
 officer;
- (c) The name, business address, business telephone number and
 occupation of the trustee of the legal defense fund;
- (d) The investigation, claim, case or proceeding for which the legal
 defense fund is established;
- (e) Whether the nature of the investigation, claim, case or proceeding, is
 civil, criminal or administrative;
- (f) Any limitation on the amount of contributions to the legal defense
 fund; and
- (g) The manner in which the legal defense fund will dispose of
 contributions to the fund which have not been spent or committed for
 expenditure.

3. The Secretary of State shall review the statement of purpose
 submitted pursuant to subsection 2 and shall approve or deny approval for
 the establishment of the legal defense fund within 5 days after the
 Secretary of State receives the statement of purpose. The Secretary of State
 shall approve the establishment of the legal defense fund if:

- (a) The statement of purpose indicates that the legal defense fund
 complies with the requirements of this section and sections 11 to 16,
 inclusive, of this act; and

(b) The investigation, claim, case or proceeding identified pursuant to paragraph (d) of subsection 2 arises from or is directly related to the campaign of the candidate or the campaign or official duties or activities of the public officer.

4. If the Secretary of State denies approval to establish a legal defense fund, the candidate or public officer seeking approval for the establishment of a legal defense fund is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.

5. A candidate or public officer who establishes a legal defense fund shall name the legal defense fund as follows: "The (name of candidate or public officer) Legal Defense Fund." If the candidate or public officer establishes more than one legal defense fund, the name of each fund must also be numerically identified in the order in which the fund was established.

Sec. 11. 1. If a candidate or public officer establishes a legal defense fund, the candidate or public officer must appoint a trustee to manage the fund. The trustee must be a natural person who has no authority over the employees of the candidate or public officer who established the legal defense fund.

2. The candidate, public officer and the trustee shall not solicit contributions to the legal defense fund from employees of the candidate, public officer or trustee.

Sec. 12. 1. A legal defense fund shall not pay any expenses other than legal expenses which arise from or are directly related to the investigation, claim, case or proceeding identified pursuant to paragraph (d) of subsection 2 of section 10 of this act.

2. If the nature of the investigation, claim, case or proceeding, as identified pursuant to paragraph (e) of subsection 2 of section 10 of this act, changes, the candidate or public officer who established the legal defense fund must file an amendment to the statement of purpose. The amendment to the statement of purpose must identify the change in the nature of the investigation, claim, case or proceeding.

Sec. 13. 1. A person shall not make a contribution or contributions in an amount which exceeds \$10,000 during any 12-month period to a legal defense fund established by a candidate or public officer.

2. A candidate, public officer or the trustee of a legal defense fund shall not solicit or accept a contribution which violates subsection 1.

3. A person shall not:

(a) Make a contribution to a legal defense fund in the name of another person;

(b) Knowingly allow his name to be used to cause a contribution to a legal defense fund to be made in the name of another person or assist in the making of a contribution to a legal defense fund in the name of another person;

(c) Knowingly assist a person to make a contribution to a legal defense fund in the name of another person; or

(d) Knowingly accept a contribution to a legal defense fund made by a person in the name of another person.

4. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "make a contribution to a legal defense fund in the name of another person" includes, without limitation:

(a) Giving money or an item of value, all or part of which was provided by another person, without disclosing the source of the money or item of value to the recipient at the time the contribution to the legal defense fund is made; and

(b) Giving money or an item of value, all or part of which belongs to the person who is giving the money or item of value, and claiming that the money or item of value belongs to another person.

Sec. 14. 1. If a candidate or public officer establishes a legal defense fund, the candidate or public officer shall file with the Secretary of State a report of the contributions to and disbursements from the legal defense fund not later than:

(a) April 30, for the period from January 1 through March 31;

(b) July 31, for the period from April 1 through June 30;

(c) October 31, for the period from July 1 through September 30; and

(d) January 31, for the period from October 1 of the previous year through December 31 of the previous year.

2. The report required by subsection 1 must:

(a) Be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373;

(b) Be signed by the candidate or public officer under penalty of perjury; and

(c) Disclose:

(1) Each contribution in excess of \$100 to the legal defense fund received during the period and contributions received during the period from a contributor which cumulatively exceed \$100;

(2) The name and address of each contributor and the date on which the contribution was received for each contribution disclosed pursuant to subparagraph (1);

(3) All disbursements in excess of \$100 made from the legal defense fund during the period and disbursements made from the legal defense fund during the period to a single recipient which cumulatively exceed \$100; and

(4) The name and address of each recipient and the date on which the disbursement was made for each disbursement disclosed pursuant to subparagraph (3).

Sec. 15. Within 90 days after the conclusion of the investigation, claim, case or proceeding identified pursuant to paragraph (d) of

subsection 2 of section 10 of this act, the legal defense fund must be dissolved and the candidate or public officer who established the legal defense fund must file a notice of dissolution with the Secretary of State.

The notice of dissolution must:

1. State that the legal defense fund has been dissolved; and
2. Disclose the manner in which the legal defense fund disposed of contributions to the legal defense fund which were not spent or committed for expenditure.

Sec. 16. 1. If a candidate for state, district, county or township office at a primary or general election or a public officer who was elected to the office for which he is serving establishes a legal defense fund, the candidate or public officer shall not spend a contribution to the legal defense fund for his personal use.

2. Within 90 days after the conclusion of the civil claim, criminal case or administrative proceeding for which the legal defense fund was established, any contributions to the legal defense fund which were not spent or committed for expenditure must be:

- (a) Returned to contributors;
- (b) Donated to a tax-exempt nonprofit entity;
- (c) Donated to the State General Fund; or
- (d) Disposed of in any combination of methods provided in paragraphs (a), (b) and (c).

Sec. 17. 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 9 of this act** have the meanings ascribed to them in those sections.

Sec. 18. NRS 294A.300 is hereby amended to read as follows:

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose 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.

2. This section does not prohibit ~~the~~ :

(a) The payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

(b) A member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect from soliciting or accepting contributions, or commitments to make such contributions, to a legal defense fund established pursuant to the provisions of sections 10 to 16, inclusive, of this act.

Sec. 19. 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 Secretary of State shall design a form to be used for the report of contributions to and disbursements from a legal defense fund that is required to be filed pursuant to section 14 of this act.*

3. The ~~form~~ forms designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

~~3~~ 4. Upon request, the Secretary of State shall provide a copy of the ~~form~~ forms designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1 ~~or~~ 2.

~~4~~ 5. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

Sec. 20. 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 14 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 sections 10 to 16, inclusive, of this act is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the

First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 21. NRS 218.942 is hereby amended to read as follows:

218.942 1. A lobbyist shall not knowingly or willfully make any false statement or misrepresentation of facts:

(a) To any member of the Legislative Branch in an effort to persuade or influence him in his official actions.

(b) In a registration statement or report concerning lobbying activities filed with the Director.

2. A lobbyist shall not give to a member of the Legislative Branch or a member of his staff or immediate family gifts that exceed \$100 in value in the aggregate in any calendar year.

3. A member of the Legislative Branch or a member of his staff or 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 legislative action.

5. Except during the period permitted by NRS 218.918, 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 or Executive Branch of the State Government 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 the introduction of any legislation 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 *other than a contribution to a legal defense fund pursuant to sections 10 to 16, inclusive, of this act,* 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.

~~[Sec. 8.] Sec. 22. [1.—The provisions of section 4 of this act apply to any public officer who is elected or appointed on or after October 1, 2007.~~

~~2.—The provisions of section 5 of this act apply to a lobbyist who files a statement of registration pursuant to NRS 218.918 on or after October 1, 2007.]~~ *If a candidate or public officer has established a legal defense fund before the effective date of this act:*

1. The candidate or public officer shall seek the approval of the Secretary of State by submitting to the Secretary of State a statement of purpose pursuant to section 10 of this act within 10 days after the effective date of this act. The Secretary of State shall approve the legal defense fund if the legal defense fund complies with the requirements of sections 10 to 16, inclusive, of this act.

2. The candidate or public officer shall file with the Secretary of State an initial report which covers the period beginning January 1, 2006, and ending on the effective date of this act and which contains the disclosures required by paragraph (c) of subsection 2 of section 14 of this act. The candidate or public officer shall file the initial report within 30 days after the effective date of this act. After the candidate or public officer files the

initial report, the candidate or public officer shall comply with the provisions of section 14 of this act, except that the candidate or public officer is not required to disclose any information which was disclosed in the initial report.

3. The candidate or public officer and the trustee of the legal defense fund shall comply with sections 11, 12, 13, 15 and 16 of this act.

Sec. 23. This act becomes effective upon passage and approval.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 95 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 240 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 518 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 526 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 508 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 445 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 579 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Koivisto moved that upon return from the printer Assembly Bill No. 384 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that upon return from the printer Assembly Bill No. 186 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that upon return from the printer Assembly Bill No. 257 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that upon return from the printer Assembly Bill No. 384 be rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 594.

AN ACT relating to business associations; ~~revising certain fees charged by the Office of the Secretary of State;~~ revising the provisions pertaining to the name of a foreign limited partnership; making various other changes pertaining to business associations; providing for the correction of certain records filed with the Office of the Secretary of State; **applying prospectively the requirements applicable to certain documents filed with the Office of the Secretary of State that contain certain identifying terms relating to architecture, interior design or residential design;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~¶ Sections 2, 3 and 6 of this bill revise the fees for filing and certifying certain documents with the Office of the Secretary of State. (NRS 87.4318, 87.4328, 104.9525)~~

Section 4 of this bill allows a foreign limited partnership to abbreviate its name.

(NRS 88.585)

Section 7 of this bill authorizes the Secretary of State to adopt regulations prescribing procedures for correcting certain fraudulent or false records filed with the Office of the Secretary of State.

Section 8 of this bill amends Assembly Bill No. 26 of this session to apply prospectively the provisions of that bill which add requirements applicable to certain documents filed with the Office of the Secretary of State that contain certain identifying terms relating to architecture, interior design or residential design.

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

Section 1. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

- (b) The file number of the limited-liability company, if known;
- (c) The names and titles of all of its managers or, if there is no manager, all of its managing members;
- (d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;
- (e) The name and street address of its lawfully designated resident agent in this State; and
- (f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall ~~annually~~ thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an ~~amended~~ **annual** list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

- (a) Has complied with the provisions of NRS 360.780; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

- (a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of \$125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of \$75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, cause to be mailed to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file a list required by subsection 2. Failure of any company to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 2. ~~NRS 87.4318 is hereby amended to read as follows:~~

~~87.4318—1.—A statement may be filed in the Office of the Secretary of State. A certified copy of a statement that is filed in an office in another state may be filed in the Office of the Secretary of State. Either filing has the effect provided in NRS 87.4301 to 87.4357, inclusive, with respect to partnership property located in or transactions that occur in this State.~~

~~2.—A certified copy of a statement that has been filed in the Office of the Secretary of State and recorded in the office of the applicable county recorder has the effect provided for recorded statements in NRS 87.4301 to 87.4357, inclusive. A recorded statement that is not a certified copy of a statement filed in the Office of the Secretary of State does not have the effect provided for recorded statements in NRS 87.4301 to 87.4357, inclusive.~~

~~3.—A statement filed by a partnership must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by NRS 87.4301 to 87.4357, inclusive. A natural person who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate. *The fee for filing a statement of partnership authority is \$75.*~~

~~4.—A person authorized by NRS 87.4301 to 87.4357, inclusive, to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement and states the substance of the amendment or cancellation. *The fee for filing an amendment or cancellation of a statement of partnership authority is \$175.*~~

~~5.—A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 87.4328 is hereby amended to read as follows:~~

~~87.4328—A partner or other person named as a partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to subsection 2 of NRS 87.4327 may file a statement of denial stating the name of the partnership and the fact that is being denied, which may include denial of a person's authority or status as a partner. A statement of denial is a limitation on authority as provided in subsections 4 and 5 of NRS 87.4327. *The fee for filing a statement of denial is \$75.*] (Deleted by amendment.)~~

Sec. 4. NRS 88.585 is hereby amended to read as follows:

88.585 Except as otherwise provided in NRS 88.609, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that ~~[includes without abbreviation]~~ *contains* the words "limited partnership" *or the abbreviation "LP" or "L.P."* and that could be registered by a domestic limited partnership.

Sec. 5. NRS 92A.205 is hereby amended to read as follows:

92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:

(a) Articles of conversion setting forth:

(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and

(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, ~~82,~~ 86, 88, 88A or 89 of NRS.

(c) A certificate of acceptance of appointment of a resident agent for the resulting entity which is signed by the resident agent.

2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:

(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;

(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and

(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.

3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 88.330.

4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.

5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.

Sec. 6. ~~NRS 104.9525 is hereby amended to read as follows:~~

~~104.9525 1. Except as otherwise provided in subsection [5,] 6, the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in subsection 2 of NRS 104.9502, is:~~

~~(a) Forty dollars if the record is communicated in writing and consists of one or two pages;~~

~~(b) Sixty dollars if the record is communicated in writing and consists of more than two pages, and \$2 for each page over 20 pages;~~

~~(c) Twenty dollars if the record is communicated by another medium authorized by filing office rule; and~~

~~(d) Two dollars for each additional debtor, trade name or reference to another name under which business is done.~~

~~2. The filing officer may charge and collect \$2 for each page of copy or record of filings produced by him at the request of any person.~~

~~3. Except as otherwise provided in subsection [5,] 6, the fee for filing and indexing an initial financing statement of the kind described in subsection 3 of NRS 104.9502 is [:~~

~~(a) Sixty dollars] \$40 if the financing statement indicates that it is filed in connection with a public finance transaction [; and~~

~~(b) Forty dollars if the financing statement indicates that it is filed in connection with] or a manufactured home transaction.~~

~~4. The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is:~~

~~(a) Forty dollars if the request is communicated in writing; and~~

~~(b) Twenty dollars if the request is communicated by another medium authorized by filing office rule.~~

~~5. The fee for certifying a copy of a financing statement, amendment or other record on file in the Office of the Secretary of State pursuant to chapter 104 of NRS is \$30.~~

~~6. This section does not require a fee with respect to a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as extracted collateral or timber to be cut under subsection 3 of NRS 104.9502. However, the fees for recording and satisfaction which otherwise would be applicable to the mortgage apply.]~~

(Deleted by amendment.)

Sec. 7. NRS 225.084 is hereby amended to read as follows:

225.084 1. A person shall not willfully file, promote the filing of, or cause to be filed, or attempt or conspire to file, promote the filing of, or cause to be filed, any record in the Office of the Secretary of State if the person has actual knowledge that the record:

(a) Is forged or fraudulently altered;

(b) Contains a false statement of material fact; or

(c) Is being filed in bad faith or for the purpose of harassing or defrauding any person.

2. Any person who violates this section is liable in a civil action brought pursuant to this section for:

(a) Actual damages caused by each separate violation of this section, or \$10,000 for each separate violation of this section, whichever is greater;

(b) All costs of bringing and maintaining the action, including investigative expenses and fees for expert witnesses;

(c) Reasonable attorney's fees; and

(d) Any punitive damages that the facts may warrant.

3. A civil action may be brought pursuant to this section by:

(a) Any person who is damaged by a violation of this section, including, without limitation, any person who is damaged as the result of an action taken in reliance on a record filed in violation of this section; or

(b) The Attorney General, in the name of the State of Nevada, if the matter is referred to the Attorney General by the Secretary of State and if the Attorney General, after due inquiry, determines that a civil action should be brought pursuant to this section. Any money recovered by the Attorney General pursuant to this paragraph, after deducting all costs and expenses incurred by the Attorney General and the Secretary of State to investigate and act upon the violation, must be deposited in the State General Fund.

4. For the purposes of this section, each filing of a single record that constitutes a violation of this section shall be deemed to be a separate violation.

5. The rights, remedies and penalties provided pursuant to this section are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 239.330.

6. ***The Secretary of State may adopt regulations prescribing procedures for correcting any record filed in violation of this section.***

7. As used in this section, “record” means information that is:

(a) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) Filed or offered for filing by a person pursuant to any provision of title 7 of NRS or Article 9 of the Uniform Commercial Code.

Sec. 8. Assembly Bill No. 26 of this session is hereby amended by adding thereto a new section to be designated as sec. 6.5, following sec. 6, to read as follows:

Sec. 6.5. The amendatory provisions of this act do not apply to a:

1. Corporation that files its articles of incorporation with the Secretary of State;

2. Foreign corporation that files the records required pursuant to subsection 1 of NRS 80.010 or NRS 80.110 with the Secretary of State;

3. Nonprofit corporation that files its articles of incorporation with the Secretary of State;

4. Limited-liability company that files its articles of organization with the Secretary of State;

5. Registered limited-liability partnership that files its certificate of registration with the Secretary of State; or

6. Limited partnership that files its certificate of limited partnership with the Secretary of State,

↪ before the effective date of this act.

Sec. 9. 1. This section and section 8 of this act become effective upon passage and approval.

2. Sections 1 to ~~6,~~ 7, inclusive, of this act become effective on October 1, 2007.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 145.

Bill read third time.

The following amendment was proposed by Assemblyman Hardy:

Amendment No. 593.

“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 ~~for other entity~~ that is obligated to pay benefits for services provided to a person by a hospital or other provider of health care to make such payments directly to the person if the insurer ~~for other entity~~ has notice that the person has assigned the benefits to the hospital or other provider of health care.

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

Section 1. Chapter 679A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any specific statute to the contrary, an insurer ~~for other entity~~ 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 ~~for other entity~~ 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 ~~for other entity~~ 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 ~~for other entity~~ 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 ~~for other entity~~ to collect the assigned benefits.

Assemblyman Hardy moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 297.

Bill read third time.

The following amendment was proposed by Assemblyman Bobzien:

Amendment No. 541.

AN ACT relating to motor vehicles; providing for the issuance of special license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno; **requiring the proposal for issuance of the plates to be submitted to the Commission on Special License Plates for approval**; imposing a fee for the issuance and renewal of such license plates; **revising the requirements for approval of special license plates authorized by an act of the Legislature**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the issuance of a special license plate for the support and enhancement of parks, recreation facilities and programs in the City of Reno. ~~The Department must receive 1,000 applications for such a plate before it~~ **Before the Department of Motor Vehicles** designs, prepares and issues the special license plate ~~it~~ : **(1) the Commission on Special License Plates must approve the design, preparation and issuance of the plate; and (2) the Department must receive 1,000 applications for the plate.** This bill also provides that the fees collected pursuant to the issuance of the plate must be deposited in the State General Fund. The State Treasurer is required to distribute the fees, on a quarterly basis, to the City Treasurer of the City of Reno. **This bill also provides for approval or disapproval by the Commission on Special License Plates of applications for special license plates authorized by an act of the Legislature after January 1, 2007.**

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. Except as otherwise provided in this subsection, the Department, in cooperation with the Reno Recreation and Parks Commission or its successor, shall design, prepare and issue license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the license plates unless ~~it~~ :

(a) The Commission on Special License Plates approves the design, preparation and issuance of those plates as described in NRS 482.367004; and

(b) The Department receives at least 1,000 applications for the issuance of those plates within 2 years after the effective date of this act.

2. ~~If the Department receives at least 1,000 applications for the Commission on Special License Plates approves the design, preparation and issuance of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsection 1, and the Department receives at least 1,000 applications for the issuance of the license plates, the Department shall issue those plates for a 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 license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if that person pays the fees for the personalized prestige license plates in addition to the fees for the license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsections 3 and 4.~~

3. ~~The fee for license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of \$10.~~

4. ~~In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno must pay for the initial issuance of the plates an additional fee of \$25 and for each renewal of the plates an additional fee of \$20 to be distributed pursuant to subsection 5.~~

5. ~~The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this section to the City Treasurer of the City of Reno to be used to pay for the support and enhancement of parks, recreation facilities and programs in the City of Reno.~~

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 482.216 is hereby amended to read as follows:

482.216 1. Upon the request of a new vehicle dealer, the Department may authorize the new vehicle dealer to:

(a) Accept applications for the registration of the new motor vehicles he sells and the related fees and taxes;

(b) Issue certificates of registration to applicants who satisfy the requirements of this chapter; and

(c) Accept applications for the transfer of registration pursuant to NRS 482.399 if the applicant purchased from the new vehicle dealer a new vehicle to which the registration is to be transferred.

2. A new vehicle dealer who is authorized to issue certificates of registration pursuant to subsection 1 shall:

(a) Transmit the applications he receives to the Department within the period prescribed by the Department;

(b) Transmit the fees he collects from the applicants and properly account for them within the period prescribed by the Department;

(c) Comply with the regulations adopted pursuant to subsection 4; and

(d) Bear any cost of equipment which is necessary to issue certificates of registration, including any computer hardware or software.

3. A new vehicle dealer who is authorized to issue certificates of registration pursuant to subsection 1 shall not:

(a) Charge any additional fee for the performance of those services;

(b) Receive compensation from the Department for the performance of those services;

(c) Accept applications for the renewal of registration of a motor vehicle; or

(d) Accept an application for the registration of a motor vehicle if the applicant wishes to:

(1) Obtain special license plates pursuant to NRS 482.3667 to 482.3825, inclusive ~~and~~, **and section 1 of this act**; or

(2) Claim the exemption from the governmental services tax provided pursuant to NRS 361.1565 to veterans and their relations.

4. The Director shall adopt such regulations as are necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must provide for:

(a) The expedient and secure issuance of license plates and decals by the Department; and

(b) The withdrawal of the authority granted to a new vehicle dealer pursuant to subsection 1 if that dealer fails to comply with the regulations adopted by the Department.

Sec. 3. NRS 482.2703 is hereby amended to read as follows:

482.2703 1. The Director may order the preparation of sample license plates which must be of the same design and size as regular license plates or license plates issued pursuant to NRS 482.384. The Director shall ensure that:

(a) Each license plate issued pursuant to this subsection, regardless of its design, is inscribed with the word SAMPLE and an identical designation

which consists of the same group of three numerals followed by the same group of three letters; and

(b) The designation of numerals and letters assigned pursuant to paragraph (a) is not assigned to a vehicle registered pursuant to this chapter or chapter 706 of NRS.

2. The Director may order the preparation of sample license plates which must be of the same design and size as any of the special license plates issued pursuant to NRS 482.3667 to 482.3823, inclusive ~~†~~, **and section 1 of this act.** The Director shall ensure that:

(a) Each license plate issued pursuant to this subsection, regardless of its design, is inscribed with the word SAMPLE and the number zero in the location where any other numerals would normally be displayed on a license plate of that design; and

(b) The number assigned pursuant to paragraph (a) is not assigned to a vehicle registered pursuant to this chapter or chapter 706 of NRS.

3. The Director may establish a fee for the issuance of sample license plates of not more than \$15 for each license plate.

4. A decal issued pursuant to NRS 482.271 may be displayed on a sample license plate issued pursuant to this section.

5. All money collected from the issuance of sample license plates must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

6. A person shall not affix a sample license plate issued pursuant to this section to a vehicle. A person who violates the provisions of this subsection is guilty of a misdemeanor.

Sec. 4. 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 ~~;~~ **and**

(c) Applications for the design, preparation and issuance of special license plates that have been authorized by an act of the Legislature after January 1, 2007.

↪ 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.

~~{Sec. 4.}~~ **Sec. 5.** NRS 482.367008 is hereby amended to read as follows:

482.367008 1. As used in this section, “special license plate” means:

(a) A license plate that the Department has designed and prepared pursuant to NRS 482.367002 in accordance with the system of application and petition described in that section;

(b) A license plate approved by the Legislature that the Department has designed and prepared pursuant to NRS 482.3747, 482.37903, 482.37905, 482.37917, 482.379175, 482.37918, 482.379185, 482.37919, 482.3792, 482.3793, 482.37933, 482.37934, 482.37935, 482.379355, 482.379365, 482.37937, 482.37938 or 482.37945 ~~;~~ **or section 1 of this act;** and

(c) A license plate that:

(1) Is approved by the Legislature after July 1, 2005; and

(2) Differs substantially in design from the license plates that are described in subsection 1 of NRS 482.270.

2. Notwithstanding any other provision of law to the contrary, the Department shall not, at any one time, issue more than 25 separate designs of special license plates. Whenever the total number of separate designs of special license plates issued by the Department at any one time is less than 25, the Department shall issue a number of additional designs of special license plates that have been authorized by an act of the Legislature or the application for which has been approved by the Commission on Special License Plates pursuant to subsection 5 of NRS 482.367004, not to exceed a total of 25 designs issued by the Department at any one time. Such additional

designs must be issued by the Department in accordance with the chronological order of their authorization or approval.

3. Except as otherwise provided in this subsection, on October 1 of each year the Department shall assess the viability of each separate design of special license plate that the Department is currently issuing by determining the total number of validly registered motor vehicles to which that design of special license plate is affixed. The Department shall not determine the total number of validly registered motor vehicles to which a particular design of special license plate is affixed if:

(a) The particular design of special license plate was designed and prepared by the Department pursuant to NRS 482.367002; and

(b) On October 1, that particular design of special license plate has been available to be issued for less than 12 months.

4. Except as otherwise provided in subsection 6, if, on October 1, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:

(a) In the case of special license plates designed and prepared by the Department pursuant to NRS 482.367002, less than 1,000; or

(b) In the case of special license plates authorized directly by the Legislature which are described in paragraph (b) of subsection 1, less than the number of applications required to be received by the Department for the initial issuance of those plates,

↪ the Director shall provide notice of that fact in the manner described in subsection 5.

5. The notice required pursuant to subsection 4 must be provided:

(a) If the special license plate generates financial support for a cause or charitable organization, to that cause or charitable organization.

(b) If the special license plate does not generate financial support for a cause or charitable organization, to an entity which is involved in promoting the activity, place or other matter that is depicted on the plate.

6. If, on December 31 of the same year in which notice was provided pursuant to subsections 4 and 5, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:

(a) In the case of special license plates designed and prepared by the Department pursuant to NRS 482.367002, less than 1,000; or

(b) In the case of special license plates authorized directly by the Legislature which are described in paragraph (b) of subsection 1, less than the number of applications required to be received by the Department for the initial issuance of those plates,

↪ the Director shall, notwithstanding any other provision of law to the contrary, issue an order providing that the Department will no longer issue that particular design of special license plate. Such an order does not require existing holders of that particular design of special license plate to surrender their plates to the Department and does not prohibit those holders from renewing those plates.

Sec. 6. NRS 482.36705 is hereby amended to read as follows:

482.36705 1. If a new special license plate is authorized by an act of the Legislature after January 1, 2003, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Department receives at least 1,000 applications for the issuance of that plate within 2 years after the effective date of the act of the Legislature that authorized the plate.

2. In addition to the requirements set forth in subsection 1, if a new special license plate is authorized by an act of the Legislature after July 1, 2005, the Legislature will direct that the license plate not be issued by the Department unless its issuance complies with subsection 2 of NRS 482.367008.

3. In addition to the requirements set forth in subsections 1 and 2, if a new special license plate is authorized by an act of the Legislature after January 1, 2007, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Commission on Special License Plates approves the application for the authorized plate pursuant to NRS 482.367004.

~~{Sec. 5.}~~ **Sec. 7.** NRS 482.3824 is hereby amended to read as follows:

482.3824 1. With respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3825, inclusive, **and section 1 of this act**, and for which an additional fee is imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer or other type of vehicle that is not a passenger car or light commercial vehicle, excluding motorcycles and vehicles required to be registered with the Department pursuant to NRS 706.801 to 706.861, inclusive, 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. The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs

associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. As used in this section, "charitable organization" means a particular cause, charity or other entity that receives money from the imposition of an additional fee in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3825, inclusive ~~to~~, **and section 1 of this act**. The term includes the successor, if any, of a charitable organization.

~~{Sec. 6.}~~ **Sec. 8.** NRS 482.399 is hereby amended to read as follows:

482.399 1. Upon the transfer of the ownership of or interest in any vehicle by any holder of a valid registration, or upon destruction of the vehicle, the registration expires.

2. The holder of the original registration may transfer the registration to another vehicle to be registered by him and use the same regular license plate or plates or special license plate or plates issued pursuant to NRS 482.3667 to 482.3823, inclusive, **and section 1 of this act**, or 482.384, on the vehicle from which the registration is being transferred, if the license plate or plates are appropriate for the second vehicle, upon filing an application for transfer of registration and upon paying the transfer registration fee and the excess, if any, of the registration fee and governmental services tax on the vehicle to which the registration is transferred over the total registration fee and governmental services tax paid on all vehicles from which he is transferring his ownership or interest. Except as otherwise provided in NRS 482.294, an application for transfer of registration must be made in person, if practicable, to any office or agent of the Department or to a registered dealer, and the license plate or plates may not be used upon a second vehicle until registration of that vehicle is complete.

3. In computing the governmental services tax, the Department, its agent or the registered dealer shall credit the portion of the tax paid on the first vehicle attributable to the remainder of the current registration period or calendar year on a pro rata monthly basis against the tax due on the second vehicle or on any other vehicle of which the person is the registered owner. If any person transfers his ownership or interest in two or more vehicles, the Department or the registered dealer shall credit the portion of the tax paid on all of the vehicles attributable to the remainder of the current registration period or calendar year on a pro rata monthly basis against the tax due on the vehicle to which the registration is transferred or on any other vehicle of which the person is the registered owner. The certificates of registration and unused license plates of the vehicles from which a person transfers his ownership or interest must be submitted before credit is given against the tax due on the vehicle to which the registration is transferred or on any other vehicle of which the person is the registered owner.

4. In computing the registration fee, the Department or its agent or the registered dealer shall credit the portion of the registration fee paid on each

vehicle attributable to the remainder of the current calendar year or registration period on a pro rata basis against the registration fee due on the vehicle to which registration is transferred.

5. If the amount owed on the registration fee or governmental services tax on the vehicle to which registration is transferred is less than the credit on the total registration fee or governmental services tax paid on all vehicles from which a person transfers his ownership or interest, no refund may be allowed by the Department.

6. If the license plate or plates are not appropriate for the second vehicle, the plate or plates must be surrendered to the Department or registered dealer and an appropriate plate or plates must be issued by the Department. The Department shall not reissue the surrendered plate or plates until the next succeeding licensing period.

7. If application for transfer of registration is not made within 60 days after the destruction or transfer of ownership of or interest in any vehicle, the license plate or plates must be surrendered to the Department on or before the 60th day for cancellation of the registration.

8. If a person cancels his registration and surrenders to the Department his license plates for a vehicle, the Department shall, in accordance with the provisions of subsection 9, issue to the person a refund of the portion of the registration fee and governmental services tax paid on the vehicle attributable to the remainder of the current calendar year or registration period on a pro rata basis.

9. The Department shall issue a refund pursuant to subsection 8 only if the request for a refund is made at the time the registration is cancelled and the license plates are surrendered, the person requesting the refund is a resident of Nevada, the amount eligible for refund exceeds \$100, and evidence satisfactory to the Department is submitted that reasonably proves the existence of extenuating circumstances. For the purposes of this subsection, the term “extenuating circumstances” means circumstances wherein:

- (a) The person has recently relinquished his driver’s license and has sold or otherwise disposed of his vehicle.
- (b) The vehicle has been determined to be inoperable and the person does not transfer the registration to a different vehicle.
- (c) The owner of the vehicle is seriously ill or has died and the guardians or survivors have sold or otherwise disposed of the vehicle.
- (d) Any other event occurs which the Department, by regulation, has defined to constitute an “extenuating circumstance” for the purposes of this subsection.

~~Sec. 7.~~ **Sec. 9.** NRS 482.500 is hereby amended to read as follows:

482.500 1. Except as otherwise provided in subsection 2 or 3, whenever upon application any duplicate or substitute certificate of registration, decal or number plate is issued, the following fees must be paid:
For a certificate of registration.....\$5.00

For every substitute number plate or set of plates..... 5.00
 For every duplicate number plate or set of plates 10.00
 For every decal displaying a county name..... .50
 For every other decal, license plate sticker or tab..... 5.00

2. The following fees must be paid for any replacement plate or set of plates issued for the following special license plates:

(a) For any special plate issued pursuant to NRS 482.3667, 482.367002, 482.3672, 482.3675, 482.370 to 482.376, inclusive, or 482.379 to 482.3818, inclusive, **and section 1 of this act**, a fee of \$10.

(b) For any special plate issued pursuant to NRS 482.368, 482.3765, 482.377 or 482.378, a fee of \$5.

(c) Except as otherwise provided in paragraph (a) of subsection 1 of NRS 482.3824, for any souvenir license plate issued pursuant to NRS 482.3825 or sample license plate issued pursuant to NRS 482.2703, a fee equal to that established by the Director for the issuance of those plates.

3. A fee must not be charged for a duplicate or substitute of a decal issued pursuant to NRS 482.37635.

4. The fees which are paid for duplicate number plates and decals displaying county names must be deposited with the State Treasurer for credit to the Motor Vehicle Fund and allocated to the Department to defray the costs of duplicating the plates and manufacturing the decals.

~~{Sec. 8.}~~ **Sec. 10.** This act becomes effective upon passage and approval.

Assemblyman Bobzien moved the adoption of the amendment.

Remarks by Assemblyman Bobzien.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 53.

Bill read third time.

Remarks by Assemblywomen Kirkpatrick and Gansert.

Roll call on Assembly Bill No. 53:

YEAS—42.

NAYS—None.

Assembly Bill No. 53 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 80.

Bill read third time.

Remarks by Assemblymen Koivisto, Goicoechea, and Conklin.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 80:

YEAS—32.

NAYS—Beers, Carpenter, Christensen, Cobb, Goicoechea, Grady, Hardy, Mabey, Marvel, Stewart—10.

Assembly Bill No. 80 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 139.

Bill read third time.

Remarks by Assemblyman Beers.

Roll call on Assembly Bill No. 139:

YEAS—42.

NAYS—None.

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

Bill ordered transmitted to the Senate.

Assembly Bill No. 207.

Bill read third time.

Remarks by Assemblyman Ocegüera.

Potential conflict of interest declared by Assemblywoman Buckley.

Roll call on Assembly Bill No. 207:

YEAS—35.

NAYS—Christensen, Cobb, Goedhart, Hardy, Mabey, Settlemeyer, Weber—7.

Assembly Bill No. 207 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 234.

Bill read third time.

Remarks by Assemblyman Settlemeyer.

Roll call on Assembly Bill No. 234:

YEAS—42.

NAYS—None.

Assembly Bill No. 234 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Ocegüera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 1:07 p.m.

ASSEMBLY IN SESSION

At 1:09 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 249 be taken from the General File and placed on the General File for the next legislative session.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 369 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Anderson.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 279.

Bill read third time.

Remarks by Assemblymen Kihuen and Parks.

Roll call on Assembly Bill No. 279:

YEAS—41.

NAYS—Gansert.

Assembly Bill No. 279 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 321.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 321:

YEAS—42.

NAYS—None.

Assembly Bill No. 321 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 352.

Bill read third time.

Remarks by Assemblywoman Gerhardt.

Roll call on Assembly Bill No. 352:

YEAS—42.

NAYS—None.

Assembly Bill No. 352 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 415.

Bill read third time.

Remarks by Assemblymen Hardy, Horne, and Kirkpatrick.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 415:

YEAS—42.

NAYS—None.

Assembly Bill No. 415 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 439.

Bill read third time.

Remarks by Assemblymen Kirkpatrick and Conklin.

Roll call on Assembly Bill No. 439:

YEAS—42.

NAYS—None.

Assembly Bill No. 439 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 446.

Bill read third time.

The following amendment was proposed by Assemblyman Denis:

Amendment No. 597.

AN ACT relating to prescriptions; revising provisions governing the tracking of prescriptions for controlled substances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the creation of a computerized program to track prescriptions for controlled substances listed in schedule II, III or IV. (NRS 453.1545) Section 1 of this bill requires a practitioner, under certain circumstances, before he writes a prescription for such a controlled substance for a patient, to obtain a patient utilization report concerning the patient from the computerized program to ensure that the patient does not already have a prescription for that controlled substance. Section 2 of this bill provides that each practitioner who is authorized to write prescriptions for controlled substances listed in schedule II, III or IV must have Internet access to the database of the computerized program. Section 3 of this bill requires the State Board of Pharmacy to report to the Legislature concerning the implementation of this bill.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

A practitioner shall, before he writes a prescription for a controlled substance listed in schedule II, III or IV for a patient, obtain a patient

utilization report regarding the patient for the preceding 12 months from the computerized program established by the Board and the Investigation Division of the Department of Public Safety pursuant to NRS 453.1545 if ~~the~~ the practitioner has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition and:

- 1. The patient is a new patient of the practitioner; or*
 - 2. The patient has not received any prescription for a controlled substance from the practitioner in the preceding 12 months. ~~for~~*
 - ~~*3. The practitioner has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition.*~~
- ↪ The practitioner shall review the patient utilization report to assess whether the prescription for the controlled substance is medically necessary.*

Sec. 2. NRS 453.1545 is hereby amended to read as follows:

453.1545 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; and

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient.

(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.

(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.

2. The Board shall provide each practitioner who is authorized to write prescriptions for controlled substances listed in schedule II, III or IV with Internet access to the database of the program established pursuant to subsection 1 to carry out the provisions of section 1 of this act.

3. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.

~~4.~~ *4. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement*

agency or occupational licensing board with the relevant information obtained from the program for further investigation.

~~{4}~~ 5. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section, must not be disclosed to any person. That information must be disclosed:

(a) Upon the request of a person about whom the information requested concerns or upon the request on his behalf by his attorney; or

(b) Upon the lawful order of a court of competent jurisdiction.

~~{5}~~ 6. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

Sec. 3. The State Board of Pharmacy shall, on or before February 1, 2009, submit a report concerning the implementation of this act to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Assemblyman Denis moved the adoption of the amendment.

Remarks by Assemblyman Denis.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 491.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Assembly Bill No. 491:

YEAS—38.

NAYS—Beers, Christensen, Cobb, Settlemeyer—4.

Assembly Bill No. 491 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 494.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Assembly Bill No. 494:

YEAS—28.

NAYS—Allen, Beers, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settlemeyer, Stewart, Weber—14.

Assembly Bill No. 494 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 517.

Bill read third time.

Remarks by Assemblymen Koivisto and Carpenter.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Koivisto moved that Assembly Bill No. 517 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 535.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 535:

YEAS—42.

NAYS—None.

Assembly Bill No. 535 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 592.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Assembly Bill No. 592:

YEAS—42.

NAYS—None.

Assembly Bill No. 592 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 602.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 602:

YEAS—42.

NAYS—None.

Assembly Bill No. 602 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Assembly Bills Nos. 142, 569, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN KOIVISTO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocgeuera moved that Assembly Bills Nos. 142 and 569 just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 142.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 512.

AN ACT relating to ethics in government; requiring certain public officers and lobbyists to attend a course on 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, ~~and~~ newly registered lobbyists, **and newly employed lobbyists for governmental agencies** to take a course on 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. ~~[Legislative lobbyists must also include in each monthly disclosure report filed while the Legislature is in session, a list of any legislation of which he opposed or urged introduction, passage or amendment during the previous month.]~~

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.

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:

Each:

1. Public officer who is required to file a statement of financial disclosure pursuant to NRS 281.541, 281.559 or 281.561 shall, within 6 months after his initial election or appointment to his office; ~~and~~

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,*

~~↪ ~~attend~~ complete a course on ethics in government that is ~~taught or otherwise conducted~~ developed by the Commission.~~

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.

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.

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.}~~

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,}~~ ~~{6,}~~ 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. ~~*In addition to the requirements set forth in subsection 2, a report filed pursuant to paragraph (a) of subsection 1 must include a list of any legislation of which the registrant opposed or urged introduction, passage or amendment during the previous month.*~~

~~4,}~~ 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.}~~ ~~{5.}~~ **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.}~~ ~~{6.}~~ **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.

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.

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.

Sec. 8. *Sections 8 to 31, inclusive, of this act may be cited as the Nevada Executive Department Lobbying Disclosure Act.*

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.*

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.*

Sec. 11. *"Executive action" means any official action or duty for which the Executive Department is responsible ~~and~~ in establishing policy, but does not include such actions by employees that provide a specific service to the general public.*

Sec. 12. *"Executive Department" means the Executive Department of the State Government and includes ~~and, without limitation,~~ a constitutional officer ~~for a member of the staff of a constitutional officer, an agency, a bureau, a board, a commission, a department, a division, an officer or employee thereof, an agent or any other unit of the Executive Department of the State Government,~~, 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.*

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.*

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 ~~and~~:*

(a) A political contribution of money or services relating to a political campaign ~~and~~;

(b) A commercially reasonable loan made in the ordinary course of business ~~and, the cost of entertainment, including the~~;

(c) The cost of food or beverages ~~or anything~~;

(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 ~~third~~ fifth degree of consanguinity or from the spouse of any such relative ~~or~~; 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).

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.

Sec. 16. "Person" includes a group of persons acting in concert, whether or not formally organized.

Sec. 17. Every person who acts as a lobbyist shall ~~file, not later than 2 days after the beginning of that activity, file a~~ 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.

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.*

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.*

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.*

Sec. 21. 1. *Each registrant shall file with the Secretary of State ~~between the 1st and 10th day of the month after the end of each calendar quarter~~ 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.

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.*

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.*

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 ~~for~~ or reinstatement of registration, payable to the ~~State General Fund,~~ 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.*

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.*

Sec. 26. 1. *The Secretary of State shall:*

(a) *Make investigations on his own initiative with respect to ~~any~~ irregularities which he discovers in the statements and reports filed and with respect to the failure of any person to file a required statement or report, ~~and shall make~~*

(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.*

~~((b))~~ (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 ~~the Attorney General~~ 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.*

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.*

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.

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.

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.

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.*

Sec. 32. 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.**

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 569.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 227.

AN ACT relating to elections; eliminating various provisions concerning supplies that are no longer used in elections; regulating the process for rescinding a withdrawal of candidacy; making various changes regarding early voting; providing a deadline by which a regulation of the Secretary of State must be effective to be applicable to a particular election; providing for when certain offices must be declared elected and no election held for the office; making certain changes concerning the official record for a recount; making various changes to the provisions governing absent ballots; making various changes concerning questions placed on a ballot; making various other changes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law in chapters 293, 293B and 293C of NRS refers to the use of pollbooks and to mechanical voting systems whereby a voter may cast his vote by punching a card. Sections 5, 6, 9, ~~15, 17, 19, 22, 24-27, 29-33, 35, 37-42, 44, 45, 48, 50-54, 56-59, 61, 62, 64-67, 69-73, 75, 77-82, 84-90 and 92-94~~ **16, 18, 20, 23, 25, 26, 28, 29, 31-35, 37, 40-44, 46, 47, 50, 55-59, 61-64, 66, 67, 69-72, 74-78, 80, 82-87, 89-95 and 97-99** of this bill eliminate references to the use of pollbooks or to a voter punching a card or casting his ballot with a punch card and to any procedures concerning the use of such supplies, as these supplies and systems are no longer in use in elections in this State. Section ~~96~~ **101** of this bill repeals many sections that deal exclusively with these supplies and systems.

Existing law authorizes and provides a procedure for a candidate to withdraw his candidacy, but makes no provision for the manner in which a candidate may rescind after he has withdrawn his declaration of candidacy. (NRS 293.202) Section ~~101~~ **11** of this bill creates a procedure for a candidate to rescind his withdrawal of candidacy.

Existing law requires the Secretary of State to adopt regulations governing the conduct of elections. (NRS 293.247) Sections ~~116 and 911~~ **17 and 96** of this bill provide that only permanent regulations of the Secretary of State that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.

Existing law provides that when no more than the number of candidates to be elected have filed for nomination for most nonpartisan offices, the names of the candidates must still appear on the ballot for the primary election. (NRS 293.260) Sections ~~118 and 95~~ **19 and 100** change that requirement to provide that for the office of member of a town advisory board and for certain offices on the Board of Governors of the Elko Convention and Visitors Authority, in such a situation those candidates must be declared elected and no election may be held for that office.

Existing law requires that mechanical recording devices which directly record votes electronically must provide a permanent paper record that must be available as an official record for a recount. (NRS 293.2696, 293B.084) Sections ~~223 and 521~~ **24 and 57** of this bill eliminate the requirement that the permanent paper records be available as an official record for a recount.

Existing law specifies the procedure for county and city clerks to process absent ballots returned by mail or in person. (NRS 293.325, 293C.325) Sections ~~228 and 681~~ **30 and 73** of this bill make revisions to clarify the procedure.

Existing law specifies the procedure and timing for the appropriate counting board to remove absent ballots from ballot boxes for the purpose of counting them. (NRS 293.384, 293.385, 293C.382, 293C.385) Sections ~~44, 83 and 84~~ **45, 46, 88 and 89** of this bill revise the timing to provide that the appropriate counting board may remove the absent ballots from the ballot boxes or containers 3 working days earlier than the current provisions allow.

Existing law authorizes and sets forth a procedure for the governing body of a political subdivision or other local agency to submit a question to the qualified electors or registered voters of a designated territory. (NRS 293.481) Section ~~49~~ **51** of this bill requires a county clerk to assign a unique identification number to such a question and creates a procedure for such a governing body to withdraw a question that was properly submitted to a county or city clerk.

Existing law requires the use of voting receipts and specifies that such voting receipts have two parts. (NRS 293.2673, 293.3585, 293.3604, 293B.300, 293B.305, 293C.261, 293C.3585, 293C.3604, 293C.620) Sections ~~21, 35, 36, 55, 56, 63, 75, 76 and 86~~ **22, 37, 38, 60, 61, 68, 80, 81 and 91** of this bill change these provisions to make the use of voting receipts optional at the discretion of the county or city clerk. These sections of the bill also eliminate the requirement that the voting receipts have two parts.

Section ~~96~~ **101** of this bill repeals the section that requires the Secretary of State to publish a pamphlet describing the requirements for filing and circulating an initiative petition and several other sections dealing with obsolete election procedures. (NRS 293.12756)

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Ballot box" means a box that is capable of being secured and is used to receive the voted ballots.***

Sec. 3. ***"Provisional ballot" means a ballot voted by a person pursuant to NRS 293.3081 to 293.3086, inclusive.***

Sec. 4. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and sections 2 and 3 of this act***, have the meanings ascribed to them in those sections.

Sec. 5. 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. 6. NRS 293.040 is hereby amended to read as follows:

293.040 "Clerk" means the election board officer designated or assigned to make the record of the election in the [pollbook,] ***roster***, tally list and challenge list in the precinct or district in which such officer is appointed.

Sec. 7. NRS 293.093 is hereby amended to read as follows:

293.093 "Regular votes" means the votes cast by registered voters, except votes cast by absent ***ballot or provisional*** ballot.

Sec. 8. NRS 293.097 is hereby amended to read as follows:

293.097 "Sample ballot" means a document distributed by a county or city clerk upon which is printed a [facsimile of] *list of the offices, candidates and ballot questions that will appear on* a ballot. The term includes any such document which is printed by a computer.

Sec. 9. NRS 293.113 is hereby amended to read as follows:

293.113 "Tally list" [or "tally book"] means the [forms] *form* furnished *to* election board officers to be used in [tallying or] recording the number of votes cast for each candidate and question on the ballot . [as such votes are called in counting.]

Sec. 10. NRS 293.12757 is hereby amended to read as follows:

293.12757 A person may sign a petition required under the election laws of this State on or after the date he is deemed to be registered to vote pursuant to ~~subsection 5 of~~ NRS 293.517 or subsection 7 of NRS 293.5235.

~~Sec. 10.~~ **Sec. 11.** NRS 293.202 is hereby amended to read as follows:

293.202 **1.** A withdrawal of candidacy for office must be in writing and must be presented by the candidate in person, within 7 days, excluding Saturdays, Sundays and holidays, after the last day for filing, to the officer whose duty it is to receive filings for candidacy for that office. *If the withdrawal of candidacy is submitted in a timely manner pursuant to the provisions of this subsection, it shall be deemed effective after the seventh day, excluding Saturdays, Sundays and holidays, after the last day for filing.*

2. *A rescission of a withdrawal of candidacy must be in writing and presented by the candidate in person, within the 7 days, excluding Saturdays, Sundays and holidays, after the last day for filing, to the officer whose duty it is to receive filings for candidacy for that office.*

~~Sec. 11.~~ **Sec. 12.** NRS 293.207 is hereby amended to read as follows:

293.207 **1.** Election precincts must be established on the basis of the number of registered voters therein, with a maximum [of 600 registered voters per precinct in those precincts in which paper ballots are used, or a maximum] of 1,500 registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.

2. Except as otherwise provided in subsections 3 and 4, the county clerk may consolidate two or more contiguous election precincts into a single voting district to conduct a particular election as public convenience, necessity and economy may require.

3. If a county clerk proposes to consolidate two or more contiguous election precincts, in whole or in part, pursuant to subsection 2, the county clerk shall, at least 14 days before consolidating the precincts, cause notice of the proposed consolidation to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the consolidation.

4. A person may file a written objection to the proposed consolidation with the county clerk. The county clerk shall consider each written objection filed pursuant to this subsection before consolidating the precincts.

~~Sec. 12.~~ **Sec. 13.** NRS 293.213 is hereby amended to read as follows:

293.213 1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may establish that precinct as a mailing precinct . [, and shall forthwith mail notification to the field registrar for that precinct.]

2. Except as otherwise provided in NRS 293.208, the county clerk in any county where an absent ballot central counting board is appointed may abolish two or more existing mailing precincts and combine those mailing precincts into absent ballot precincts. Those mailing precincts must be designated absent ballot mailing precincts.

3. In any county where an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

4. The county clerk shall, at least 14 days before establishing or designating a precinct as a mailing precinct or absent ballot mailing precinct or before abolishing a mailing precinct pursuant to this section, cause notice of such action to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the action.

~~Sec. 13.~~ **Sec. 14.** NRS 293.217 is hereby amended to read as follows:

293.217 1. The county clerk of each county shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the county as provided in NRS 293.220 to [293.245,] **293.243**, inclusive, and 293.384 . [, and shall conclude those duties no later than 31 days before the election.] The registered voters appointed as election board officers for any precinct or district must not all be of the same political party. No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the county clerk, the sheriff shall:

(a) Appoint a deputy sheriff for each polling place in the county and for the central election board or the absent ballot central counting board; or

(b) Deputize as a deputy sheriff for the election an election board officer of each polling place in the county and for the central election board or the absent ballot central counting board. The deputized officer shall receive no additional compensation for his services rendered as a deputy sheriff during the election for which he is deputized.

↳ Deputy sheriffs so appointed and deputized shall preserve order during hours of voting and attend closing of the polls.

2. The county clerk may appoint a trainee for the position of election board officer as set forth in NRS 293.2175.

~~[Sec. 14.]~~ **Sec. 15.** NRS 293.227 is hereby amended to read as follows:

293.227 1. Each election board [consists of at least three members, one of whom must be] **must have one member** designated **as the** chairman by the county or city clerk. The **election** boards shall make the records of election required by this chapter.

2. The appointment of a trainee as set forth in NRS 293.2175 and 293C.222 may be used to determine the number of members on the election board, but under no circumstances may:

- (a) The election board of any precinct include more than one trainee; or
- (b) A trainee serve as chairman of the election board.

3. The county or city clerk shall conduct or cause to be conducted [, at least 5 days before the date of the election for which the boards are appointed,] a school to acquaint the [chairmen] **members of an election board** with the election laws, duties of election boards, regulations of the Secretary of State and with the procedure for making the records of election and using the register for election boards. [If the person appointed chairman is unable for any reason to attend the school, he shall appoint some other member of his election board to attend the school in his stead.]

4. The board of county commissioners of any county or the city council of any city may reimburse the [chairmen or their designees] **members of an election board** who attend the school for their travel expenses at a rate not exceeding 10 cents per mile.

[5. Each chairman shall instruct his board before election day.]

~~[Sec. 15.]~~ **Sec. 16.** NRS 293.230 is hereby amended to read as follows:

293.230 [1. In precincts or districts where there are less than 200 registered voters and paper ballots are used, the election board shall perform all duties required from the time of preparing for the opening of the polls through delivering the supplies and result of votes cast to the county clerk.

2.] Except as otherwise provided in NRS 293.235, one election board must be appointed by the county clerk for all mailing precincts within the county and must be designated the central election board. The county clerk shall deliver the mailed ballots to that board in his office and the board shall count the votes on those ballots in the manner required by law.

~~[Sec. 16.]~~ **Sec. 17.** NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. ***Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.***

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

[2.] 3. The regulations must prescribe:

- (a) The duties of election boards;
- (b) The type and amount of election supplies;
- (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
- (d) The method to be used in distributing ballots to precincts and districts;
- (e) The method of inspection and the disposition of ballot boxes;
- (f) The form and placement of instructions to voters;
- (g) The recess periods for election boards;
- (h) The size, lighting and placement of voting booths;
- (i) The amount and placement of guardrails and other furniture and equipment at voting places;
- (j) The disposition of election returns;
- (k) The procedures to be used for canvasses, ties, recounts and contests [;]
, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;
- (l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;
- (m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;
- (n) ***The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;***
- (o) The procedures to be used for the disposition of absent ballots in case of an emergency;
- [(o)] (p) The forms for applications to register to vote and any other forms necessary for the administration of this title; and
- [(p)] (q) Such other matters as determined necessary by the Secretary of State.

[3.] 4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and

regulations governing the conduct of primary, general, special and district elections in this State.

[4.] 5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

- (a) Laws and regulations concerning elections in this State;
- (b) Interpretations issued by the Secretary of State's Office; and
- (c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

~~[Sec. 17.]~~ **Sec. 18.** NRS 293.250 is hereby amended to read as follows:

293.250 1. The Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, [pollbooks,] registers, rosters, statements and abstracts required by the election laws of this State.

(b) The procedure to be followed when a computer is used to register voters and to keep records of registration.

2. The Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against, and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible

must be completed by August 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

~~{Sec. 18.}~~ **Sec. 19.** NRS 293.260 is hereby amended to read as follows:

293.260 1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.

2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.

3. If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.

4. If only one major political party has candidates for a particular office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:

(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his name must be placed on the ballot for the general election.

(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.

5. Where no more than the number of candidates to be elected have filed for nomination for:

(a) Any partisan office or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election; [and]

(b) Any nonpartisan office, other than the office of justice of the Supreme Court [.] ***or the office of member of a town advisory board***, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, he must be declared elected to the office and his name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his name must be placed on the ballot for the general election [.] ; ***and***

(c) ***The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.***

6. If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

~~{Sec. 19.}~~ **Sec. 20.** 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. 20.}~~ **Sec. 21.** NRS 293.265 is hereby amended to read as follows:

293.265 On nonpartisan primary ballots, there must appear at the top of the ballot the designation ["Candidates for] "Nonpartisan Offices." Except as otherwise provided in NRS 293.2565, following this designation must appear the names of candidates grouped alphabetically under the title and length of term of the nonpartisan office for which those candidates filed.

~~{Sec. 21.}~~ **Sec. 22.** NRS 293.2673 is hereby amended to read as follows:

293.2673 1. A ballot prepared for use in an election in this State must be dated and marked in such a manner as to indicate clearly at which election the ballot will be used.

2. If a ballot includes a detachable stub, both the ballot and the stub must include the date of the election and indicate clearly at which election the ballot will be used.

3. If a ballot includes a voting receipt , [which has two parts, each part of] the voting receipt must include the date of the election and indicate clearly at which election the [ballot will be used.] ***voter cast his ballot.***

~~[Sec. 22.]~~ **Sec. 23.** 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. 23.]~~ **Sec. 24.** NRS 293.2696 is hereby amended to read as follows:

293.2696 The Secretary of State and each county and city clerk shall ensure that each voting system used in this State:

1. Secures to each voter privacy and independence in the act of voting, including, without limitation, confidentiality of the ballot of the voter;

2. Allows each voter to verify privately and independently the votes selected by the voter on the ballot before the ballot is cast and counted;

3. Provides each voter with the opportunity, in a private and independent manner, to change the ballot and to correct any error before the ballot is cast and counted, including, without limitation, the opportunity to correct an error through the issuance of a replacement ballot if the voter is otherwise unable to change the ballot or correct the error;

4. Provides a permanent paper record with a manual audit capacity ; [which must be available as an official record for a recount;] and

5. Meets or exceeds the standards for voting systems established by the Federal Election Commission, including, without limitation, the error rate standards.

~~[Sec. 24.]~~ **Sec. 25.** NRS 293.285 is hereby amended to read as follows:

293.285 [1.] A registered voter applying to vote shall state his name to the election board officer in charge of the election board register and the officer shall immediately announce the name and take the registered voter's signature. [After a registered voter is properly identified at a polling place where paper ballots are used, one partisan ballot and, if required, one nonpartisan ballot, correctly folded must be given to the voter and the number of the ballot or ballots must be written by an election board officer upon the pollbook, opposite the name of the registered voter receiving the ballot or ballots.

2. In pollbooks in which voters' names have been entered, election officers may indicate the application to vote without writing the name.]

~~[Sec. 25.]~~ **Sec. 26.** NRS 293.297 is hereby amended to read as follows:

293.297 [1. Except as otherwise provided in subsection 2:

(a) Any voter who spoils his ballot may return the spoiled ballot to the election board and receive another in its place.

(b) The election board officers shall indicate in the pollbook that the ballot is spoiled and shall enter the number of the ballot issued in its place.

(c) Each spoiled ballot returned must be cancelled by writing the word "Cancelled" across the back of the ballot. A spoiled paper ballot must be cancelled without unfolding it.

(d) A record must be made of those cancelled ballots at the closing of the polls and before counting. The ballots must be placed in a separate envelope and returned to the appropriate county clerk with the election supplies.

2. If ballots which are voted on a] **A** mechanical recording device which directly records [the] votes electronically [are used,] **must allow** the voter [must be able] to change his vote before the mechanical recording device permanently records that vote.

Sec. 27. 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 ~~for district~~ upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election. ~~For~~ **A registered voter who initiates a challenge pursuant to this paragraph must submit an affirmation that is signed under penalty of perjury and in the form prescribed by the Secretary of State stating that the challenge is based on the personal knowledge of the registered voter.**

(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.

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. 26.~~ **Sec. 28.** 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] *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] , *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. 27.]~~ **Sec. 29.** 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 **or by any class of mail if the Official Election Mail logo created by the United States Postal Service is placed properly on the official absent ballot,** 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 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)] Supplies for marking the ballot;

[(4)] **(c)** 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)] **(d)** 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 mail his absent ballot to the county 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 in the [mails] *mail* 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. 28.]~~ **Sec. 30.** NRS 293.325 is hereby amended to read as follows:

293.325 1. Except as otherwise provided in [subsections 2 and 3,] **subsection 2**, when an absent ballot is returned by a registered voter to the county clerk through the [mails] *mail or in person*, 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 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] ***has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail or in person, the county clerk shall*** check the signature on the return envelope against the original signature of 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] ***Not*** earlier than 4 working days before the election, ***the county clerk shall*** deliver the ballots to the absent ballot central counting board to be processed and prepared for [tabulation] ***counting*** pursuant to the procedures established by the Secretary of State [.] ***to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293.273 or 293.305.***

~~[Sec. 29.]~~ ***Sec. 31.*** 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. 30.~~ **Sec. 32.** 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, must be called and checked as if the voter were voting in person;
- 2. The signature on the back of the return envelope 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] *roster* opposite the name of the voter the word "Voted."

~~Sec. 31.~~ **Sec. 33.** 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)] **(b)** An envelope or similar device into which the ballot is inserted to ensure its secrecy;
- [(d)] **(c)** A sample ballot; and
- [(e)] **(d)** 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. 32.]~~ **Sec. 34.** 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. 33.]~~ **Sec. 35.** 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. 34.]~~ **Sec. 36.** NRS 293.3568 is hereby amended to read as follows:

293.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary or general election and extends through the Friday before election day, Sundays and holidays excepted.

2. The county clerk may:

(a) Include any Sunday or holiday that falls within the period for early voting by personal appearance.

(b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 p.m.

(2) During the second week of early voting, from 8 a.m. until 6 p.m. , or until 8 p.m. if the county clerk so requires.

(b) On any Saturday that falls within the period for early voting, [from] **for at least 4 hours between** 10 a.m. [until] **and** 6 p.m.

(c) If the county clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as he may establish.

~~[Sec. 35.]~~ **Sec. 37.** 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)] , **if the county clerk uses voting receipts; and**

(e) 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. 36.]~~ **Sec. 38.** NRS 293.3604 is hereby amended to read as follows:

293.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting by personal appearance in an election other than a presidential preference primary election:

1. At the close of each voting day the election board shall:

(a) Prepare and sign a statement for the polling place. The statement must include:

(1) The title of the election;

(2) The number of the precinct or voting district;

(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(4) The number of ballots voted on the mechanical recording device for that day; **and**

(5) The number of signatures in the roster for early voting for that day . [; and

(6) The number of voting receipts retained pursuant to NRS 293.3585 for that day.]

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293.3594.

2. At the close of the last voting day, the county clerk shall deliver to the ballot board for early voting:

(a) The statements for all polling places for early voting;

(b) [The voting receipts retained pursuant to NRS 293.3585;

(c)] The voting rosters used for early voting;

[(d)] (c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

[(e)] (d) Any other items as determined by the county clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

- (a) Sort the items by precinct or voting district;
- (b) Count the number of ballots voted by precinct or voting district;
- (c) Account for all ballots on an official statement of ballots; and
- (d) Place the items in the container provided to transport those items to the

central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the items to the central counting place.

~~[Sec. 37.]~~ **Sec. 39.** NRS 293.3625 is hereby amended to read as follows:

293.3625 The county clerk shall make a record of the receipt at the central counting place of each sealed container used to transport official ballots pursuant to NRS 293.304, 293.325, [293.3602,] 293B.330 and 293B.335. The record must include the numbers indicated on the container and its seal pursuant to NRS 293.462.

~~[Sec. 38.]~~ **Sec. 40.** 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.] 2. If the ballots in the container or box are found to exceed in number the number of names *as are indicated* on the [pollbooks,] *roster as having voted*, 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.] 3. When it has been ascertained that [the pollbook and] the number of ballots [agree] *agrees* 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. 39.]~~ **Sec. 41.** 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. 40.]~~ **Sec. 42.** 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.] 3. 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;] 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,] including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

~~[Sec. 41.]~~ **Sec. 43.** NRS 293.370 is hereby amended to read as follows:

293.370 1. When all the votes have been [tallied,] *counted*, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes he received. The number must be expressed in words and figures. The vote for and against any question submitted to the electors must be entered in the same manner.

2. The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

(a) A primary election held in an even-numbered year; or

(b) A general election.

~~[Sec. 42.]~~ **Sec. 44.** 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] **ballots** have been [completed,] **counted**, 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,] **rosters**, tally lists and election board register must be returned to the county clerk.

~~[Sec. 43.]~~ **Sec. 45.** NRS 293.384 is hereby amended to read as follows:

293.384 1. [Beginning at 8 a.m. on the day] **Not earlier than 4 working days** before the [day of an] election, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw all the ballots from each ballot box or container that holds absent ballots received before that day and ascertain that each box or container has the required number of ballots according to the county clerk's absent voters' record.

2. The counting board or absent ballot central counting board shall count the number of ballots in the same manner as election boards.

~~[Sec. 44.]~~ **Sec. 46.** NRS 293.385 is hereby amended to read as follows:

293.385 1. [After 8 a.m. on election day,] **Each day after the initial withdrawal of the ballots pursuant to NRS 293.384 and before the day of the election**, 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,] **Not earlier than 4 working days before the election**, the appropriate board shall , [count] in public , **count** 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. 45.}~~ **Sec. 47.** NRS 293.391 is hereby amended to read as follows:

293.391 1. The ~~rosters,~~ voted ballots, rejected ballots, spoiled ballots, challenge lists, [voting receipts,] records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the board of county commissioners, be sealed and deposited in the vaults of the county clerk. The tally lists [and pollbooks] collected pursuant to NRS 293B.400 must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after the preservation period. A notice of the destruction must be published by the clerk in at least one newspaper of general circulation in the county not less than 2 weeks before the destruction.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. The [pollbooks] *rosters* containing the signatures of those persons who voted in the election and the tally lists deposited with the board of county commissioners are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the county clerk.

4. A contestant of an election may inspect all of the material regarding that election which is preserved pursuant to subsection 1 or 2, except the voted ballots.

5. The voted ballots deposited with the county clerk are not subject to the inspection of anyone, except in cases 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 such judge, body or board.

~~{Sec. 46.}~~ **Sec. 48.** NRS 293.440 is hereby amended to read as follows:

293.440 1. Any person who desires a copy of any list of the persons who are registered to vote in any precinct, district or county may obtain a copy by applying at the office of the county clerk and paying therefor a sum of money equal to 1 cent per name on the list, except that one copy of each original and supplemental list for each precinct, district or county must be provided *both* to the state [or] *central committee of any major political party and to the* county central committee of any major political party [or], *and* to the executive committee of any minor political party upon request, without charge.

2. Except as otherwise provided in NRS 293.5002 and 293.558, the copy of the list provided pursuant to this section must indicate the address, date of birth, telephone number and the serial number on each application to register to vote. If the county maintains this information in a computer database, the date of the most recent addition or revision to an entry, if made on or after July 1, 1989, must be included in the database and on any resulting list of the information. The date must be expressed numerically in the order of month, day and year.

3. A county may not pay more than 10 cents per folio or more than \$6 per thousand copies for printed lists for a precinct or district.

4. A county which has a system of computers capable of recording information on magnetic tape or diskette shall, upon request of the state *central committee* or county central committee of any major political party or the executive committee of any minor political party which has filed a certificate of existence with the Secretary of State, record for [that] *both the state central committee and the county central committee [or] of the major political party, if requested, and for the executive committee of the minor political party, if requested,* on magnetic tape or diskette supplied by it:

(a) The list of persons who are registered to vote and the information required in subsection 2; and

(b) Not more than four times per year, as requested by the *state or county central committee* or the executive committee:

(1) A complete list of the persons who are registered to vote with a notation for the most recent entry of the date on which the entry or the latest change in the information was made; or

(2) A list that includes additions and revisions made to the list of persons who are registered to vote after a date specified by the *state or county central committee* or the executive committee.

5. If a political party does not provide its own magnetic tape or diskette, or if a political party requests the list in any other form that does not require printing, the county clerk may charge a fee to cover the actual cost of providing the tape, diskette or list.

6. Any state or county central committee of a major political party, any executive committee of a minor political party or any member or representative of such a central committee or executive committee who receives without charge a list of the persons who are registered to vote in any precinct, district or county pursuant to this section shall not:

(a) Use the list for any purpose that is not related to an election; or

(b) Sell the list for compensation or other valuable consideration.

~~[Sec. 47.]~~ **Sec. 49.** NRS 293.443 is hereby amended to read as follows:

293.443 1. Except as otherwise provided in subsection 3, the expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter or chapter 293C of NRS and all expenses necessarily incurred in the preparation for, or the conduct of, any such

election is a charge upon the municipality, county, district or State, as the case may be.

2. The county or city clerk may submit the printing of ballots for competitive bidding.

3. If a political party or other entity requests more than 50 applications to register to vote by mail [,] ***in any 12-month period***, the clerk may assess a charge, not to exceed the cost of printing the applications . [, for each application requested in excess of 50.]

~~Sec. 48.]~~ **Sec. 50.** NRS 293.462 is hereby amended to read as follows:

293.462 1. Each container used to transport official ballots pursuant to NRS 293.304, 293.325, [293.3602,] 293B.330 and 293B.335 must:

- (a) Be constructed of metal or any other rigid material; and
- (b) Contain a seal which is placed on the container to ensure detection of any opening of the container.

2. The container and seal must be separately numbered for identification.

~~Sec. 49.]~~ **Sec. 51.** NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2 or NRS 295.121 or 295.217, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in May preceding the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

- (1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. *A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.*

4. A county or city clerk [may] :

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and fiscal note on the ballot.

Sec. 52. NRS 293.507 is hereby amended to read as follows:

293.507 1. The Secretary of State shall prescribe:

(a) A standard form for applications to register to vote; ~~and~~

(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer ~~;~~; **and**

(c) A standard form for the affidavit described in subsection 5.

2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.

3. Each form for an application to register to vote must include a:

(a) Unique control number assigned by the Secretary of State; and

(b) Receipt which:

(1) Includes a space for a person assisting ~~[a voter]~~ an applicant in completing the form to enter his name; and

(2) May be retained by the applicant upon completion of the form.

4. The form for an application to register to vote must include:

(a) A line for use by the ~~[county clerk]~~ applicant to enter:

(1) The number indicated on the ~~[voter's]~~ applicant's current and valid driver's license issued by the Department of Motor Vehicles, if the ~~[voter]~~ applicant has such a driver's license;

(2) The last four digits of the ~~[voter's]~~ applicant's social security number, if the ~~[voter]~~ applicant does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or

(3) The number issued to the ~~[voter]~~ applicant pursuant to subsection 5, if the ~~[voter]~~ applicant does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.

(b) A line on which to enter the address at which the ~~[voter]~~ applicant actually resides, as set forth in NRS 293.486.

(c) A notice that the ~~[voter]~~ applicant may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.

(d) A line on which to enter an address at which the ~~[voter]~~ applicant may receive mail, including, without limitation, a post office box or general delivery.

5. If ~~[a voter]~~ an applicant does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the ~~[voter]~~ applicant shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the ~~[voter]~~ applicant which must be the same number as the unique identifier assigned to the ~~[voter]~~ applicant for purposes of the statewide voter registration list.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5.

Sec. 53. 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.

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. ~~Am~~ **Except as otherwise provided in subsection 7, 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~~ **pursuant to NRS 293.485,** 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.

7. If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if he believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk whether:

(a) The application to register to vote of the elector is complete and the elector is eligible to vote pursuant to NRS 293.485; and

(b) The county clerk should proceed to process the application to register to vote.

↪ If the District Attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.

Sec. 54. NRS 293.547 is hereby amended to read as follows:

293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He is registered to vote in the same precinct ~~for district~~ as the person whose right to vote is challenged; ~~for~~ **and**

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall:

(a) File the challenge in the registrar of voters' register and:

(1) In counties where records of registration are not kept by computer, he shall attach a copy of the challenge to the challenged registration in the election board register.

(2) In counties where records of registration are kept by computer, he shall have the challenge printed on the computer entry for the challenged registration and add a copy of it to the election board register.

(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing him of the challenge. If the person fails to respond or appear to vote within the required time, the county clerk shall cancel his registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.

(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.

6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.

~~Sec. 50.~~ **Sec. 55. 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. 51.]~~ **Sec. 56.** 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. 52.]~~ **Sec. 57.** NRS 293B.084 is hereby amended to read as follows:

293B.084 1. A mechanical recording device which directly records votes electronically must:

(a) Bear a number which identifies that mechanical recording device.

(b) Be equipped with a storage device which:

(1) Stores the ballots voted on the mechanical recording device;

(2) Can be removed from the mechanical recording device for the purpose of transporting the ballots stored therein to a central counting place; and

(3) Bears the same number as the mechanical recording device.

(c) Be designed in such a manner that voted ballots may be stored within the mechanical recording device and the storage device required pursuant to paragraph (b) at the same time.

(d) Be capable of providing a record printed on paper of:

(1) Each ballot voted on the mechanical recording device; and

(2) The total number of votes recorded on the mechanical recording device for each candidate and for or against each measure.

2. The paper record described in paragraph (d) of subsection 1 must [:

~~(a) Be] **be** printed and made available for a manual audit, as [necessary; and~~

~~(b) Be printed and serve as an official record for a recount, as] necessary.~~

~~[Sec. 53.]~~ **Sec. 58.** 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) A], a voting receipt [which has two parts must] may be used.~~

~~[(b) Each part of the voting receipt must bear the same number for identification.~~

~~(c) 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. 54.]~~ **Sec. 59.** 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. 55.]~~ **Sec. 60.** NRS 293B.300 is hereby amended to read as follows:

293B.300 1. In a primary election, a member of the election board for a precinct shall issue each partisan voter a ballot which contains a distinctive

code associated with the major political party of the voter and on which is clearly printed the name of the party.

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, *if the clerk uses voting receipts*, in addition to the ballot described in subsection 1, issue each partisan voter a voting receipt on which is clearly printed the name of the major political party of the voter.

3. The member of the election board shall direct the partisan voter to a mechanical recording device containing the list of offices and candidates arranged for the voter's major political party in the manner provided in NRS 293B.190.

~~[Sec. 56.]~~ **Sec. 61.** 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, *if the clerk uses voting receipts*, 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. 57.]~~ **Sec. 62.** 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.~~

~~(e)]~~ 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. 58.]~~ **Sec. 63.** 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 *paper* ballots to the ballot duplicating board . ~~[- if the ballots were voted by punching a card.]~~

5. Receive duplicates of damaged *paper* 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 *paper* 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 *paper* ballot that has been marked in a way that identifies the voter.

8. Place each rejected *paper* 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. 59.]~~ **Sec. 64.** 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 [~~;~~] *pursuant to NRS 293B.365*, 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. 60.]~~ **Sec. 65.** NRS 293C.220 is hereby amended to read as follows:

293C.220 1. The city clerk shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the city as provided in NRS 293.225, 293.227, 293C.227 to [~~293C.250,~~] **293C.245**, inclusive, and 293C.382. [~~and shall conclude those duties not later than 31 days before the election.~~] No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the city clerk, the chief law enforcement officer of the city shall:

(a) Appoint an officer for each polling place in the city and for the central election board or the absent ballot central counting board; or

(b) Deputize, as an officer for the election, an election board officer for each polling place and for the central election board or the absent ballot central counting board. The deputized officer may not receive any additional compensation for the services he provides as an officer during the election for which he is deputized.

↪ Officers so appointed and deputized shall preserve order during hours of voting and attend the closing of the polls.

2. The city clerk may appoint a trainee for the position of election board officer as set forth in NRS 293C.222.

~~{Sec. 61.}~~ **Sec. 66.** NRS 293C.230 is hereby amended to read as follows:

293C.230 ~~[1.—In precincts or districts in a city where there are less than 200 registered voters and paper ballots are used, the election board shall perform all duties required from the time of preparing for the opening of the polls through delivering the supplies and result of votes cast to the city clerk.~~

~~—2.]~~ Except as otherwise provided in NRS 293C.240, one election board must be appointed by the city clerk for all mailing precincts within the city and must be designated the central election board. The city clerk shall deliver the mailed ballots to that board in his office and the board shall count the votes on those ballots in the manner required by law.

~~{Sec. 62.}~~ **Sec. 67.** 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. 63.}~~ **Sec. 68.** NRS 293C.261 is hereby amended to read as follows:

293C.261 1. A ballot prepared for use in a city election must be dated and marked in such a manner as to indicate clearly at which city election the ballot will be used.

2. If a ballot includes a detachable stub, both the ballot and the stub must include the date of the city election and indicate clearly at which city election the ballot will be used.

3. If a ballot includes a voting receipt, ~~[which has two parts, each part of] the voting receipt must include the date of the city election and indicate clearly at which city election the [ballot will be used.] voter cast his ballot.~~

~~{Sec. 64.}~~ **Sec. 69.** NRS 293C.275 is hereby amended to read as follows:

293C.275 ~~[+.]~~ A registered voter who applies to vote must state his name to the election board officer in charge of the election board register, and the officer shall immediately announce the name and take the registered voter's signature. ~~[After a registered voter is properly identified at a polling place where paper ballots are used, one ballot correctly folded, must be given~~

to the voter and the number of the ballot must be written by an election board officer upon the pollbook, opposite the name of the registered voter receiving the ballot.

~~2. In pollbooks in which the names of the voters have been entered, election officers may indicate the application to vote without writing the name.]~~

~~[Sec. 65.]~~ **Sec. 70.** NRS 293C.285 is hereby amended to read as follows:

293C.285 [1. Except as otherwise provided in subsection 2:

~~(a) Any voter who spoils his ballot may return the spoiled ballot to the election board and receive another in its place.~~

~~(b) The election board officers shall indicate in the pollbook that the ballot is spoiled and shall enter the number of the ballot issued in its place.~~

~~(c) Each spoiled ballot returned must be cancelled by writing the word "Cancelled" across the back of the ballot. A spoiled paper ballot must be cancelled without unfolding it.~~

~~(d) A record must be made of those cancelled ballots at the closing of the polls and before counting. The ballots must be placed in a separate envelope and returned to the city clerk with the election supplies.~~

2. ~~If ballots that are voted on a~~ A mechanical recording device which directly records [the] votes electronically [~~are used,~~] **must allow** the voter [~~must be able~~] to change his vote before the mechanical recording device permanently records that vote.

~~[Sec. 66.]~~ **Sec. 71.** 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 ~~the~~:

~~(a) A special ballot box if the ballots are paper ballots or ballots that are voted by punching a card; or~~

~~(b) A] 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~~, 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. 67.]~~ **Sec. 72.** 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 **or by any class of mail if the Official Election Mail logo created by the United States Postal Service is placed properly on the official absent ballot,** 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 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)}~~ Supplies for marking the ballot;

~~(4)~~ (c) 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)}~~ (d) 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. 68.]~~ **Sec. 73.** NRS 293C.325 is hereby amended to read as follows:

293C.325 1. Except as otherwise provided in ~~[subsections]~~ **subsection 2**, ~~[and 3,]~~ when an absent ballot is returned by a registered voter to the city clerk through the mails ~~[;]~~ **or in person**, 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 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]~~ **has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mails or in person, the county clerk shall** check the signature on the return envelope against the original signature of 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]~~ **Not** earlier than 4 working days before the election, **the county clerk shall** deliver the ballots to the absent ballot central counting board to be

processed and prepared for ~~[tabulation]~~ **counting** pursuant to the procedures established by the Secretary of State ~~[-]~~ **to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293C.267 or 293C.297.**

~~[Sec. 69.]~~ **Sec. 74.** 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. 70.]~~ **Sec. 75.** 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, must be called and checked as if the voter were voting in person;
2. The signature on the back of the return envelope 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]~~ *roster* opposite the name of the voter the word "Voted."

~~[Sec. 74.]~~ **Sec. 76.** 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)]~~ **(b)** An envelope or similar device into which the ballot is inserted to ensure its secrecy;
- ~~(d)]~~ **(c)** A sample ballot; and
- ~~(e)]~~ **(d)** 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. 72.]~~ **Sec. 77.** 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. 73.]~~ **Sec. 78.** 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. 74.]~~ **Sec. 79.** NRS 293C.3568 is hereby amended to read as follows:

293C.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary city election or general city election, and extends through the Friday before election day, Sundays and holidays excepted.

2. The city clerk may:

(a) Include any Sunday or holiday that falls within the period for early voting by personal appearance.

(b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 p.m.

(2) During the second week of early voting, from 8 a.m. until 6 p.m. , or until 8 p.m. if the city clerk so requires.

(b) On any Saturday that falls within the period for early voting, ~~[from]~~ **for at least 4 hours between 10 a.m. ~~[until]~~ and 6 p.m.**

(c) If the city clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as he may establish.

~~[Sec. 75.]~~ **Sec. 80.** 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 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)~~, **if the city clerk uses voting receipts; and**

(c) 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. 76.]~~ **Sec. 81.** NRS 293C.3604 is hereby amended to read as follows:

293C.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting by personal appearance in an election other than a presidential preference primary election:

1. At the close of each voting day the election board shall:

(a) Prepare and sign a statement for the polling place. The statement must include:

(1) The title of the election;

(2) The number of the precinct or voting district;

(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(4) The number of ballots voted on the mechanical recording device for that day; *and*

(5) The number of signatures in the roster for early voting for that day .

~~;~~ *and*

~~(6) The number of voting receipts retained pursuant to NRS 293C.3585 for that day.]~~

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293C.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293C.3594.

2. At the close of the last voting day, the city clerk shall deliver to the ballot board for early voting:

(a) The statements for all polling places for early voting;

(b) ~~[The voting receipts retained pursuant to NRS 293C.3585;~~

~~(c)]~~ The voting rosters used for early voting;

~~[(d)]~~ (c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

~~[(e)]~~ (d) Any other items as determined by the city clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

(a) Sort the items by precinct or voting district;

(b) Count the number of ballots voted by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a number seal. The official statement of ballots must accompany the items to the central counting place.

~~[Sec. 77.]~~ **Sec. 82.** NRS 293C.3615 is hereby amended to read as follows:

293C.3615 The city clerk shall make a record of the receipt at the central counting place of each sealed container used to transport official ballots pursuant to NRS 293C.295, 293C.325, ~~[293C.3602,]~~ 293C.630 and

293C.635. The record must include the numbers indicated on the container and its seal pursuant to NRS 293C.700.

~~{Sec. 78.}~~ **Sec. 83.** 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, ~~for 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.}~~ 2. If the ballots in the container or box are found to exceed the number of names *as are indicated* on the ~~{pollbooks,}~~ *roster as having voted*, 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.}~~ 3. When it has been determined that the ~~{pollbook and the}~~ number of ballots ~~{agree}~~ *agrees* 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. 79.}~~ **Sec. 84.** 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. 80.]~~ **Sec. 85.** 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.}~~ 3. 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.}~~ 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.}~~ including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

~~{Sec. 81.}~~ **Sec. 86.** NRS 293C.372 is hereby amended to read as follows:

293C.372 When all the votes have been ~~{tallied.}~~ **counted**, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes he received. The number must be expressed in words and figures. The vote for and against any question submitted to the electors must be entered in the same manner.

~~{Sec. 82.}~~ **Sec. 87.** 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}~~ **ballots** have been ~~{completed.}~~ **counted**, 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.}~~ **rosters**, tally lists and election board register must be returned to the city clerk.

~~{Sec. 83.}~~ **Sec. 88.** NRS 293C.382 is hereby amended to read as follows:

293C.382 1. ~~{Beginning at 8 a.m. on the day before the day of an}~~ **Not earlier than 4 working days before the** election, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw the ballots from each ballot box or container that holds absent ballots received before that day and determine whether each box or container has the required number of ballots according to the city clerk's absent voters' record.

2. The counting board or absent ballot central counting board shall count the number of ballots in the same manner as election boards.

~~{Sec. 84.}~~ **Sec. 89.** NRS 293C.385 is hereby amended to read as follows:

293C.385 1. ~~{After 8 a.m. on election day.}~~ **Each day after the initial withdrawal of the ballots pursuant to NRS 293C.382 and before the day of**

the election, 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,~~ **Not earlier than 4 working days before the election**, the appropriate board shall, ~~count~~ in public, **count** 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. 85.~~ **Sec. 90.** NRS 293C.390 is hereby amended to read as follows:

293C.390 1. The ~~prosters,~~ voted ballots, rejected ballots, spoiled ballots, challenge lists, ~~voting receipts,~~ records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the governing body of the city, be sealed and deposited in the vaults of the city clerk. The tally lists ~~and pollbooks~~ collected pursuant to NRS 293B.400 must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after that period. A notice of the destruction must be published by the city clerk in at least one newspaper of general circulation in the city, or if no newspaper is of general circulation in that city, in a newspaper of general circulation in the nearest city, not less than 2 weeks before the destruction of the materials.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. The ~~pollbooks~~ **rosters** containing the signatures of those persons who voted in the election and the tally lists deposited with the governing body of the city are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the city clerk.

4. A contestant of an election may inspect all of the material relating to that election which is preserved pursuant to subsection 1 or 2, except the voted ballots.

5. The voted ballots deposited with the city clerk are not subject to the inspection of any person, except in *cases of* a contested election, and 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 the judge, body or board.

~~[Sec. 86.]~~ **Sec. 91.** 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, *if the clerk uses voting receipts*, 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. ~~+~~

~~(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. 87.]~~ **Sec. 92.** 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. 88.}~~ **Sec. 93.** 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 *paper* ballots to the ballot duplicating board . ~~{ if the ballots were voted by punching a card. }~~

5. Receive duplicates of damaged *paper* 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 *paper* 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 *paper* ballot that has been marked in a way that identifies the voter.

8. Place each rejected *paper* 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. 89.}~~ **Sec. 94.** 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 ~~{,}~~ **pursuant to NRS 293C.645**, 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. 90.}~~ **Sec. 95.** NRS 293C.700 is hereby amended to read as follows:

293C.700 1. Each container used to transport official ballots pursuant to NRS 293C.295, 293C.325, ~~{293C.3602,}~~ 293C.630 and 293C.635 must:

(a) Be constructed of metal or any other rigid material; and

(b) Contain a seal which is placed on the container to ensure detection of any opening of the container.

2. The container and seal must be separately numbered for identification.

~~{Sec. 91.}~~ **Sec. 96.** NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 233B.0665 **or 293.247** or where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational

statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

~~[Sec. 92.]~~ **Sec. 97.** 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. 93.]~~ **Sec. 98.** 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. 94.}~~ **Sec. 99.** NRS 539.143 is hereby amended to read as follows:

539.143 In all ~~{pollbooks}~~ **rosters** and lists of registered electors prepared for any election under this chapter, the names of electors who have registered or reregistered for such election shall be distinguished from the names of those who voted at the last preceding district election but who have not so registered or reregistered, by the letter “R” enclosed in parentheses placed before each of the names of the former and the omission thereof in connection with the names of the latter.

~~{Sec. 95.}~~ **Sec. 100.** Section 8 of the Elko Convention and Visitors Authority Act, being chapter 227, Statutes of Nevada 1975, as last amended by chapter 70, Statutes of Nevada 2001, at page 516, is hereby amended to read as follows:

Sec. 8. 1. The Authority must be governed by a Board of Governors consisting of five members appointed or elected as follows:

(a) One member appointed by the Board of Supervisors of the City of Elko, who must be a current member of the Board of Supervisors;

(b) One member appointed by the Board of County Commissioners of Elko County, who must be a current member of the Board of County Commissioners;

(c) Two members elected at large, who must reside within the City of Elko and within the boundaries of the Authority; and

(d) One member elected at large, who must reside outside the City of Elko but within the boundaries of the Authority.

2. Subject to the provisions of subsection 3, the terms of those members appointed pursuant to paragraphs (a) and (b) of subsection 1 are coterminous with their respective terms in their specified elective offices.

3. Those members appointed pursuant to paragraph (a) or (b) of subsection 1 may be removed by the appointing board with or without cause.

4. Any vacancy occurring among the members of the Board appointed pursuant to paragraph (a) or (b) of subsection 1 must be filled promptly by the Board which appointed the member whose position has become vacant. Any vacancy occurring among the members of the Board elected pursuant to paragraph (c) or (d) of subsection 1 must be filled promptly by appointment by the Board of County Commissioners of Elko County. The member appointed by the Board of County Commissioners to fill a vacancy in a position created pursuant to paragraph (c) or (d) must not be a member of the Board of County Commissioners but must meet the residency requirements for the vacant position.

5. If a member elected pursuant to paragraph (c) or (d) of subsection 1 or appointed to fill a vacancy in a position created pursuant to one of those paragraphs ceases to reside in the area specified in the paragraph under which he was elected or appointed, he is automatically disqualified from serving on the Board. A disqualified member's position must be filled by the prompt appointment of a successor in the manner specified in subsection 4.

6. The term of a person appointed to fill a vacancy is the unexpired term of the member he replaces.

7. A general authority election must be held in conjunction with the general election in 1992 and with such elections every 2 years thereafter. The three members of the Board described in paragraphs (c) and (d) of subsection 1 must be elected at the general authority election in 1992. The offices created pursuant to those paragraphs are nonpartisan. Each candidate for one of these offices must file a declaration of candidacy with the County Clerk not earlier than January 1 preceding the election and not later than 5 p.m. on the third Friday in August of the year of the election. ***In any general authority election, if, at 5 p.m. on the third Friday in August, only one candidate has filed a declaration of candidacy for one of the offices created pursuant to paragraph (c) or (d) of subsection 1, that candidate must be declared elected to that office and no election may be held for that office.***

The terms of office of the members described in paragraphs (c) and (d) of subsection 1 are 4 years, except that, the initial term of office of one of the members described in paragraph (c) of subsection 1 is 2 years. The County Clerk shall designate the seat which will have an initial term of 2 years before any candidate files a declaration of candidacy for the election. The period for registering to vote in the general authority election must be closed on the 30th calendar day preceding the date of the election. All persons who are qualified to vote at general elections in this State and reside within the boundaries of the authority upon the date of the close of registration are entitled to vote at the general authority election. Except as otherwise provided in this subsection, a general authority election must be carried out in the same manner as provided for other general elections in title 24 of NRS.

~~[Sec. 96.]~~ **Sec. 101.** NRS 293.075, 293.12756, 293.233, 293.245, 293.293, 293.300, 293.359, 293.3598, 293.3602, 293.447, 293B.160,

293B.210, 293B.325, 293C.235, 293C.250, 293C.280, 293C.287, 293C.359, 293C.3598 and 293C.3602 are hereby repealed.

~~[Sec. 97.]~~ **Sec. 102.** 1. This section and sections 1 to ~~[92.]~~ **97**, inclusive, ~~[94, 95 and 96]~~ **99, 100 and 101** of this act become effective on October 1, 2007.

2. Section ~~[92.]~~ **97** of this act expires by limitation upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

3. Section ~~[92.]~~ **98** of this act becomes effective upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

LEADLINES OF REPEALED SECTIONS

293.075 "Pollbook" defined.

293.12756 Informational pamphlet concerning petitions; fee.

293.233 Appointment and duties of voting board and counting board in precinct or district where there are 200 or more registered voters and paper ballots are used.

293.245 Placing of absent ballots in ballot box.

293.293 Procedure for voting by paper ballot; duties of election board officer upon receipt of voted ballot.

293.300 Return of ballot not voted; cancellation.

293.359 Ballot boxes for paper ballots or ballots voted by punching card; seals.

293.3598 Ballot board.

293.3602 Custody of paper ballots or ballots voted by punching card; observation by general public of handling of ballots.

293.447 Employment of messenger to convey election returns to Secretary of State; compensation.

293B.160 Test program and card deck to be used for certain mechanical voting systems at 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.

293B.325 Pickup and delivery; processing before polls close.

293C.235 Appointment and duties of voting board and counting board in precinct or district where 200 or more registered voters and paper ballots used.

293C.250 Absent ballot central counting board or central election board responsible for placing absent ballots in ballot boxes in absent ballot mailing precinct.

293C.280 Procedure for voting by paper ballot; duties of election board officer upon receipt of voted ballot.

293C.287 Return and cancellation of ballot not voted.

293C.359 Ballot boxes for paper ballots or ballots voted by punching card; seals.

293C.3598 Ballot board.

293C.3602 Custody of paper ballots or ballots voted by punching card; observation by general public of handling of ballots.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended, and that all bills and joint resolutions returned from reprint be declared emergency measures under the *Constitution* and immediately placed on third reading and final passage.

Motion carried.

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

Assembly in recess at 1:48 p.m.

ASSEMBLY IN SESSION

At 2:04 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Assembly Bills Nos. 335, 604, 606, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 12, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 12, 335, 604, 606 just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 12.

Bill read second time.

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

Amendment No. 384.

SUMMARY ~~[Revises certain provisions relating to]~~ **Provides for the replacement of the State Public Works Board. (BDR 28-193)**

AN ACT relating to public works; ~~revising the composition of and certain internal procedures relating to the operations of~~ **replacing the State Public Works Board ~~with~~ with a new department in the Executive Branch of the State Government to be known as the State Public Works Department; providing for the administration and operations of the Department; creating the Legislative Advisory Committee on Public Works;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~changes the composition of~~ **replaces** the State Public Works Board ~~from a seven member body consisting of the Director of the Department of Administration and six members appointed by the Governor to a five member body consisting of the Governor, Lieutenant Governor, State Treasurer and two members appointed by the Governor. (NRS 341.020) Instead of an election of the Chairman from among the appointed members of the Board, this bill designates the Governor as the Chairman of the Board. (NRS 341.020, 341.060) This bill also transfers from the Board to the Governor the power to appoint and remove the Manager of the Board and the power to approve the appointment of certain deputies by the Manager. (NRS 341.100)~~ **with a new department in the Executive Branch of the State Government to be known as the State Public Works Department.**

Sections 14-18 of this bill establish that the head of the State Public Works Department is the Director, who serves at the pleasure of the Governor. Section 17 of this bill requires the Director to propose a capital improvement program for inclusion in the proposed budget which would require, when practicable, design and planning of a public work in one biennium and construction in the next biennium. At least once each month, the Director is required to submit to the Fiscal Analysis Division of the Legislative Counsel Bureau a report pertaining to the activities and expenditures of the Department during the preceding month. Upon receipt of the report, the Fiscal Analysis Division transmits the report, accompanied by any recommendations, to the Interim Finance Committee. Section 18 of this bill states that the report must set forth, for each public works project and capital improvement project that is paid for, in whole or in part, with money appropriated by the Legislature: (1) any change in the scope of the project; (2) any delay in the completion of the project; (3) any increase in the estimated cost to complete the project; and (4) such other information as the Legislative Advisory Committee on Public Works or Interim Finance Committee may require.

Section 51 of this bill creates the Legislative Advisory Committee on Public Works, consisting of six legislative members of which three are appointed by the Majority Leader of the Senate from the members of the Senate Standing Committee on Finance of the preceding session and three are appointed by the Speaker of the Assembly from the members of the Assembly Standing Committee on Ways and Means of the

preceding session. The Advisory Committee is granted the authority to evaluate, review and comment upon all matters relating to the planning, design, construction and satisfactory completion of public works and capital improvement projects that are financed in whole or in part with money appropriated by the Legislature, and to make recommendations on such matters to the Interim Finance Committee.

Section 75 of this bill requires the Director of the State Public Works Department, in consultation with the Legislative Advisory Committee on Public Works, to establish a pilot program to assess the costs and benefits of using privatized services for the management and inspection of construction projects.

Sections 76 and 77 of this bill provide continuity for the transition from the State Public Works Board to the State Public Works Department by: (1) clarifying that the provisions of the bill do not impair any existing contracts entered into by the State Public Works Board; and (2) declaring that the regulations of the State Public Works Board will remain in effect for 1 year (through June 30, 2008) or until the Director of the State Public Works Department adopts new regulations, whichever occurs earlier.

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

Delete existing sections 1 through 9 of this bill and replace with the following new sections 1 through 77:

Section 1. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a workman or workmen employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. **"Department" means the State Public Works Department created by NRS 341.020.**

9. **"Director" means the Director of the State Public Works Department.**

10. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

~~9~~ 11. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

~~10~~ 12. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

~~11~~ 13. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other

taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~12~~ **14.** "Offense" means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or
- (d) Comply with subsection 4 or 5 of NRS 338.070.

~~13~~ **15.** "Prime contractor" means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

↪ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

~~14~~ **16.** "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~15~~ **17.** "Public work" means any project for the new construction, repair or reconstruction of:

- (a) A project financed in whole or in part from public money for:
 - (1) Public buildings;
 - (2) Jails and prisons;
 - (3) Public roads;
 - (4) Public highways;
 - (5) Public streets and alleys;
 - (6) Public utilities;
 - (7) Publicly owned water mains and sewers;
 - (8) Public parks and playgrounds;
 - (9) Public convention facilities which are financed at least in part with public money; and
 - (10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

~~16.~~ **18.** "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~17.~~ **19.** "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

↳ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~18.~~ **20.** "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

↳ for the provision of labor, materials, equipment or supplies for a construction project.

~~19.~~ **21.** "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~20.~~ **22.** "Supplier" means a person who provides materials, equipment or supplies for a construction project.

~~21.~~ **23.** "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

~~22.~~ **24.** "Workman" means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 2. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The ~~State Public Works Board~~ **Department** shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The ~~State Public Works Board~~ **Director** shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this

State. The criteria adopted by the ~~{State Public Works Board}~~ Director pursuant to this section must be used by the ~~{State Public Works Board}~~ Department to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted ~~{by the State Public Works Board}~~ pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895;

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

Sec. 3. NRS 338.1376 is hereby amended to read as follows:

338.1376 1. Each subcontractor whose name is required to be included in a bid pursuant to NRS 338.141 must, to be eligible to provide labor or a portion of the work or improvement to a contractor to whom the ~~{State Public Works Board}~~ Department awards a contract pursuant to this chapter, be qualified in accordance with criteria established by regulation by the ~~{State Public Works Board}~~ Director. The criteria ~~{established by the State Public Works Board pursuant to this subsection}~~ must be made applicable to a subcontractor but must otherwise be substantively identical to the criteria set forth in paragraph (b) of subsection 3 of NRS 338.1375.

2. A subcontractor shall be presumed to be qualified pursuant to subsection 1 unless the ~~{State Public Works Board}~~ Director has received information that:

(a) The ~~{State Public Works Board}~~ Director determines to be sufficient and verifiable; and

(b) Indicates the subcontractor does not meet the criteria established by regulation pursuant to subsection 1.

3. Upon receipt of sufficient and verifiable information of a type described in subsection 2, the ~~{State Public Works Board}~~ Director shall require a subcontractor regarding whom such information is received to submit to the ~~{State Public Works Board}~~ Department, on a form prescribed by the ~~{State Public Works Board}~~ Director, an application for qualification in accordance with the criteria established by regulation pursuant to subsection 1. After receiving such an application, the ~~{State Public Works Board}~~ Director shall determine whether the subcontractor is qualified in accordance with the criteria established by regulation pursuant to subsection

1. Except as otherwise provided in subsection 4, if the ~~{State Public Works Board}~~ **Director** determines that the subcontractor does not meet such criteria, the ~~{State Public Works Board}~~ **Director** may disqualify the subcontractor, for a period set by the ~~{State Public Works Board,}~~ **Director**, from participating in public works projects which are sponsored by the ~~{State Public Works Board}~~ **Department**. The ~~{State Public Works Board}~~ **Department** shall provide written notice to the subcontractor of any such disqualification.

4. A subcontractor may appeal a disqualification pursuant to subsection 3 in the manner set forth in NRS 338.1381.

Sec. 4. NRS 338.1379 is hereby amended to read as follows:

338.1379 1. Except as otherwise provided in NRS 338.1382, a contractor who wishes to qualify as a bidder on a contract for a public work must submit an application to the ~~{State Public Works Board}~~ **Department** or the local government.

2. Upon receipt of an application pursuant to subsection 1, the ~~{State Public Works Board}~~ **Department** or the local government shall:

(a) Investigate the applicant to determine whether he is qualified to bid on a contract; and

(b) After conducting the investigation, determine whether the applicant is qualified to bid on a contract. The determination must be made within 45 days after receipt of the application.

3. The ~~{State Public Works Board}~~ **Department** or the local government shall notify each applicant in writing of its determination. If an application is denied, the notice must set forth the reasons for the denial and inform the applicant of his right to a hearing pursuant to NRS 338.1381.

4. The ~~{State Public Works Board}~~ **Department** or the local government may determine an applicant is qualified to bid:

(a) On a specific project; or

(b) On more than one project over a period of time to be determined by the ~~{State Public Works Board}~~ **Department** or the local government.

5. The ~~{State Public Works Board}~~ **Department** shall not use any criteria other than criteria adopted by regulation pursuant to NRS 338.1375 in determining whether to approve or deny an application.

6. The local government shall not use any criteria other than the criteria described in NRS 338.1377 in determining whether to approve or deny an application.

7. Financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to the ~~{State Public Works Board}~~ **Department** or a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.

Sec. 5. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 or disqualifying a subcontractor

pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the ~~{State Public Works Board}~~ Department or the local government, the ~~{Board}~~ Department or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the ~~{Board}~~ Department or local government. At least 10 days before the date set for the hearing, the ~~{Board}~~ Department or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the ~~{Board}~~ Department or governing body may:

- (a) Administer oaths;
- (b) Take testimony;
- (c) Issue subpoenas to compel the attendance of witnesses to testify before the ~~{Board}~~ Department or governing body;
- (d) Require the production of related books, papers and documents; and
- (e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the ~~{Board}~~ Department or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The ~~{Board}~~ Department or governing body shall issue a decision on the matter during the hearing. The decision of the ~~{Board}~~ Department or governing body is a final decision for purposes of judicial review.

Sec. 6. NRS 338.1382 is hereby amended to read as follows:

338.1382 In lieu of adopting criteria pursuant to NRS 338.1377 and determining the qualification of bidders pursuant to NRS 338.1379, a governing body may deem a person to be qualified to bid on:

1. Contracts for public works of the local government if the person has been determined by:

- (a) The ~~{State Public Works Board}~~ Department pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of the State pursuant to criteria adopted pursuant to NRS 338.1375; or

(b) Another governing body pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of that local government pursuant to the criteria set forth in NRS 338.1377.

2. A contract for a public work of the local government if:

(a) The person has been determined by the Department of Transportation pursuant to NRS 408.333 to be qualified to bid on the contract for the public work;

(b) The public work will be owned, operated or maintained by the Department of Transportation after the public work is constructed by the local government; and

(c) The Department of Transportation requested that bidders on the contract for the public work be qualified to bid on the contract pursuant to NRS 408.333.

Sec. 7. NRS 338.13895 is hereby amended to read as follows:

338.13895 1. The ~~{State Public Works Board}~~ Department shall not award a contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of his license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of the work, or who, at the time of the bid, is on disqualified status with the ~~{State Public Works Board}~~ Department pursuant to NRS 338.1376,

↪ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor.

2. A local government awarding a contract for a public work shall not award the contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of his license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of work,
↪ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor with no increase in the amount of the contract.

3. If, after awarding the contract, but before commencement of the work, the public body or its authorized representative discovers that the person to whom the contract was awarded is not licensed, or that the contract would exceed his license, the public body or its authorized representative shall rescind the award of the contract and may accept the next lowest bid for that public work from a responsive bidder who was determined by the public body or its authorized representative to be a qualified bidder pursuant to NRS 338.1379 or 338.1382 without requiring that new bids be submitted.

Sec. 8. NRS 338.139 is hereby amended to read as follows:

338.139 1. A public body or its authorized representative may award a contract for a public work pursuant to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor if:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed; and

(b) The public work to which the contract pertains is not part of a larger public work.

2. If a public body or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.13895, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who:

(a) Is licensed to perform such work; and

(b) At the time of the performance of the work, is not on disqualified status with the ~~[State Public Works Board]~~ Department pursuant to NRS 338.1376.

Sec. 9. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 1 percent of the prime contractor's total bid or \$50,000, whichever is greater, and the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his name on a list required by paragraph (a) of subsection 1 if he will perform any of the work required to be listed pursuant to paragraph (a) of subsection 1.

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; or

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the ~~State Public Works Board~~ Department pursuant to NRS 338.1376,

↳ the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the ~~State Public Works Board~~ Department pursuant to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A contractor whose bid is accepted shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. If a contractor indicates pursuant to subsection 1 that he will perform a portion of work on the public work and thereafter requests to substitute a subcontractor to perform such work, the contractor shall provide to the public body a written explanation in the form required by the public body which contains the reasons that:

(a) A subcontractor was not originally contemplated to be used on that portion of the public work; and

(b) The substitution is in the best interest of the public body.

7. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 10. NRS 338.180 is hereby amended to read as follows:

338.180 1. The Legislature of the State of Nevada declares that:

(a) The primary purpose of this section is to provide, subject to the limitations set forth in this section, for the removal and elimination of architectural barriers to the physically handicapped in public buildings and facilities designed after July 1, 1973, in order to encourage and facilitate the employment of the physically handicapped and to make public buildings accessible to and usable by the physically handicapped; and

(b) It is the intent of the Legislature that insofar as possible all buildings and facilities used by the public be accessible to, and functional for, the physically handicapped, without loss of function, space or facility where the general public is concerned.

2. All plans and specifications for the construction of public buildings and facilities owned by a public body must, after July 1, 1973, provide facilities and features for the physically handicapped so that buildings which are normally used by the public are constructed with entrance ramps, toilet facilities, drinking fountains, doors and public telephones accessible to and usable by the physically handicapped. In addition, all plans and specifications for the construction or alteration of public buildings and facilities owned by a public body must comply with the applicable requirements of the:

(a) Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations;

(b) Minimum Guidelines and Requirements for Accessible Design, 36 C.F.R. §§ 1190.1 et seq.; and

(c) Fair Housing Act, 42 U.S.C. § 3604, and the regulations adopted pursuant thereto.

↪ The requirements of paragraph (a) of this subsection are not satisfied if the plans and specifications comply solely with the Uniform Federal

Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

3. All public bodies shall, in the design, construction and alteration of public buildings and facilities comply with the applicable requirements of the:

(a) Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations;

(b) Minimum Guidelines and Requirements for Accessible Design, 36 C.F.R. §§ 1190.1 et seq.; and

(c) Fair Housing Act, 42 U.S.C. § 3604, and the regulations adopted pursuant thereto.

↪ The requirements of paragraph (a) of this subsection are not satisfied if the public body complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

4. In each public building and facility owned by a public body, each entrance to a corridor which leads to a toilet facility must be marked with a sign which:

(a) Conforms to the requirements related to signage contained in §§ 4.30 et seq. of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations; and

(b) Uses symbols, raised letters and Braille to:

(1) Identify the toilet facility and the gender of persons who may use the toilet facility; and

(2) If the toilet facility is for the exclusive use of persons of one gender:

(I) Indicate that the toilet facility is for the exclusive use of persons of that gender; and

(II) Provide direction to a toilet facility that may be used by persons of the other gender.

5. The ~~State Public Works Board~~ Department shall verify that all public buildings and facilities owned by the State of Nevada conform with the requirements of this section. Each political subdivision shall verify that all public buildings and facilities owned by the political subdivision conform with the requirements of this section.

6. A person may report a violation of this section to the Attorney General.

7. Upon receiving a report pursuant to subsection 6, the Attorney General shall notify the public body responsible for the alleged violation. Not later than 30 days after receiving such a notification, the public body shall:

(a) Present evidence to the Attorney General that it is in compliance with this section; or

(b) Begin any action necessary to comply with the requirements of this section and notify the Attorney General of the date on which it will be in compliance with those requirements.

8. If the public body responsible for the alleged violation fails to comply with this section, the Attorney General shall take such action as is necessary to ensure compliance with this section, including, without limitation, commencing proceedings in a court of competent jurisdiction, if appropriate.

Sec. 11. NRS 338.187 is hereby amended to read as follows:

338.187 1. Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217 if:

(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the ~~(State Public Works Board,)~~ Department, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and

(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.

3. Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

4. As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.

Sec. 12. NRS 339.025 is hereby amended to read as follows:

339.025 1. Before any contract, except one subject to the provisions of chapter 408 of NRS, exceeding \$100,000 for any project for the new construction, repair or reconstruction of any public building or other public work or public improvement of any contracting body is awarded to any

contractor, he shall furnish to the contracting body the following bonds which become binding upon the award of the contract to the contractor:

(a) A performance bond in an amount to be fixed by the contracting body, but not less than 50 percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The bond must be solely for the protection of the contracting body which awarded the contract.

(b) A payment bond in an amount to be fixed by the contracting body, but not less than 50 percent of the contract amount. The bond must be solely for the protection of claimants supplying labor or materials to the contractor to whom the contract was awarded, or to any of his subcontractors, in the prosecution of the work provided for in such contract.

2. If a general contractor has been awarded a contract, except one subject to the provisions of chapter 408 of NRS, by the ~~{State Public Works Board}~~ **Department** for any project for new construction, repair or reconstruction of any public building or other public work or public improvement, each of his subcontractors who will perform work on the contract that exceeds \$50,000 or 1 percent of the proposed project, whichever amount is greater, shall furnish a bond to the ~~{Board}~~ **Department** in an amount to be fixed by the ~~{Board}~~ **Department**.

3. Each of the bonds required pursuant to this section must be executed by one or more surety companies authorized to do business in the State of Nevada. If the contracting body is the State of Nevada or any officer, employee, board, bureau, commission, department, agency or institution thereof, the bonds must be payable to the State of Nevada. If the contracting body is other than one of those enumerated in this subsection, the bonds must be payable to the other contracting body.

4. Each of the bonds must be filed in the office of the contracting body which awarded the contract for which the bonds were given.

5. This section does not prohibit a contracting body from requiring bonds.

Sec. 13. Chapter 341 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 18, inclusive, of this act.

Sec. 14. "Department" means the State Public Works Department created by NRS 341.020.

Sec. 15. "Director" means the Director of the Department.

Sec. 16. The Director:

1. Is appointed by, is responsible to, and serves at the pleasure of the Governor.

2. Is in the unclassified service of the State.

3. Shall not engage in any other gainful employment or occupation.

4. Is entitled to an annual salary in an amount specified by the Legislature. The salary of the Director is exempt from the limitations set forth in NRS 281.123.

Sec. 17. 1. The Director shall prepare and submit to the Chief of the Budget Division of the Department of Administration, for inclusion in the proposed state budget pursuant to NRS 353.205, a proposed capital improvement program for each biennium.

2. The proposed capital improvement program must be divided into two parts so that, insofar as practicable, each capital improvement project that exceeds \$1,000,000 will be scheduled to receive funding for design and planning during one biennium and will be scheduled to receive funding for the construction in the subsequent biennium.

~~See. 18.~~ 1. The Director may adopt such regulations as he determines to be necessary or advisable to carry out the provisions of this chapter.

2. The Director shall, not less frequently than once every month, submit to the Fiscal Analysis Division of the Legislative Counsel Bureau a report detailing the activities and expenditures of the Department during the previous month. The report required pursuant to this subsection must include, without limitation, for each construction project and capital improvement project over which the Department has authority, jurisdiction or supervisory control:

(a) Any change in the scope of the project;

(b) Any delay in the completion of the project;

(c) Any increase in the estimated cost to complete the project; and

(d) Such other information as the Legislative Advisory Committee on Public Works or Interim Finance Committee may require.

3. Upon receipt of the report required pursuant to subsection 2, the Fiscal Analysis Division shall transmit the report and any related recommendations to the Legislative Advisory Committee on Public Works and the Interim Finance Committee.

Sec. 19. NRS 341.010 is hereby amended to read as follows:

341.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in ~~[NRS 341.013 and 341.015]~~ sections 14 and 15 of this act have the meanings ascribed to them in those sections.

Sec. 20. NRS 341.020 is hereby amended to read as follows:

341.020 1. The State Public Works ~~Board, consisting of the Director of the Department of Administration and six members appointed by the Governor,~~ Department is hereby created within the ~~Department of Administration.~~

~~2. At least one of the appointed members must have a comprehensive knowledge of the principles of administration and at least one of the appointed members must have a working knowledge of the principles of engineering or architecture.~~ Executive Branch of State Government.

2. The head of the Department is the Director.

Sec. 21. NRS 341.050 is hereby amended to read as follows:

341.050 ~~{1. Each member of the Board is entitled to receive a salary of not more than \$80 per day, as fixed by the Board, while engaged in the business of the Board.~~

~~2. While engaged in the business of the Board, each member and~~ Each employee of the ~~{Board}~~ Department is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowances and travel expenses must be paid from money appropriated for the use of the ~~{Board}~~ Department.

Sec. 22. NRS 341.070 is hereby amended to read as follows:

341.070 The ~~{Board shall}~~

~~1. Adopt~~ Director shall adopt such rules for the regulation of ~~{its}~~ the proceedings of the Department and the transaction of ~~{its}~~ the business ~~{as it}~~ of the Department as the Director deems proper.

~~{2. Meet at least once every 3 months.}~~

Sec. 23. NRS 341.080 is hereby amended to read as follows:

341.080 The ~~{Board}~~ Director shall ~~{keep}~~ ensure that a record is kept of ~~{its}~~ the official actions ~~{}~~ of the Department.

Sec. 24. NRS 341.090 is hereby amended to read as follows:

341.090 1. Except as provided in subsections 2 and 3, the ~~{Board}~~ Department may make expenditures necessary to carry into effect the purposes of its acts.

2. All expenditures made by the ~~{Board}~~ Department must be within the limits of the appropriation provided for the use of the ~~{Board}~~ Department, or provided from money appropriated or authorized for expenditure by the Legislature for construction work or major repairs.

3. The ~~{Board}~~ Department may, with the approval of the Interim Finance Committee, ~~{when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session,}~~ expend money obtained from any source for advance planning of projects of capital improvement. For the purposes of this subsection, "advance planning" means the preparation of floor plans, cross sections, elevations, outlines of specifications, estimates of cost by category of work and perspective renderings of the project.

Sec. 25. NRS 341.095 is hereby amended to read as follows:

341.095 Whenever properly approved claims payable out of a particular state building construction project account exceed the amount that is available in such project account, if the project is one which is financed in part by funds that are made available to the ~~{Board}~~ Department by the United States or any of its agencies or instrumentalities, the State Controller may transfer temporarily from the General Fund to such project account such amount as may be required to pay such claims, but not more than 50 percent of the funds collectible from the United States for the particular project.

Sec. 26. NRS 341.100 is hereby amended to read as follows:

341.100 1. The ~~{Board}~~ **Director** may appoint ~~{a Manager who serves at the pleasure of the Board and the Governor. The Board or the Governor may remove the Manager for inefficiency, neglect of duty, malfeasance or for other just cause.~~

~~2. The Manager, with the approval of the Board, may appoint a deputy for professional services and a deputy for administrative, fiscal and constructional services. In addition, the Manager may appoint~~ such **deputies** **and** other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

~~{3. The Manager and his}~~

2. **Any** deputies **so appointed** are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, ~~{the Manager and}~~ each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

~~{4. The Manager and his deputy for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of principles of administration and a working knowledge of principles of engineering or architecture as determined by the Board.~~

~~5. The Manager shall:~~

~~(a) Serve as the Secretary of the Board;~~

~~(b)~~

3. The Director shall:

(a) Manage **or provide for the management of** the daily affairs of the ~~{Board}~~.

~~{(c)}~~ **Department.**

(b) Represent the ~~{Board}~~ **Department** before the Legislature.

~~{(d)}~~ **(c)** Prepare and submit to the ~~{Board, for its approval,}~~ **Governor, for approval by the Governor,** the recommended priority for proposed capital improvement projects and provide the ~~{Board}~~ **Governor** with an estimate of the cost of each project.

~~{(e) Make}~~

(d) **Select or make** recommendations ~~{to the Board}~~ for the selection of architects, engineers and contractors.

~~{(f)}~~ **(e)** Make recommendations to the ~~{Board}~~ **Governor** concerning the acceptance of completed projects.

~~{(g)}~~ **(f)** Advise the ~~{Board and the}~~ Legislature, or the Interim Finance Committee if the Legislature is not in session, on a monthly basis of the progress of all public works projects which are a part of the approved capital improvement program.

~~{(h)}~~ **The provisions of this paragraph are in addition to any reporting requirements set forth in section 18 of this act.**

(g) Serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government.

Sec. 27. NRS 341.105 is hereby amended to read as follows:

341.105 1. When acting in the capacity of building official pursuant to paragraph ~~((h) of subsection 5)~~ (g) of subsection 3 of NRS 341.100, the ~~(Manager)~~ Director or his designated representative may issue an order to compel the cessation of work on all or any portion of a building or structure based on health or safety reasons or for violations of applicable building codes or other laws or regulations.

2. If a person receives an order issued pursuant to subsection 1, the person shall immediately cease work on the building or structure or portion thereof.

3. Any person who willfully refuses to comply with an order issued pursuant to subsection 1 or who willfully encourages another person to refuse to comply or assists another person in refusing to comply with such an order is guilty of a misdemeanor and shall be punished as provided in NRS 193.150. Any penalties collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

4. In addition to the criminal penalty set forth in subsection 3, the ~~(Manager)~~ Director may impose an administrative penalty of not more than \$1,000 per day for each day that a person violates subsection 3.

5. If a person wishes to contest an order issued to him pursuant to subsection 1, the person may bring an action in district court. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. An action brought pursuant to this subsection does not stay enforcement of the order unless the district court orders otherwise.

6. If a person refuses to comply with an order issued pursuant to subsection 1, the ~~(Manager)~~ Director may bring an action in the name of the State of Nevada in district court to compel compliance and to collect any administrative penalties imposed pursuant to subsection 4. The court shall give such a proceeding priority over other civil matters that are not expressly given priority by law. Any attorney's fees and costs awarded by the court in favor of the State and any penalties collected in the action must be deposited with the State Treasurer for credit to the State General Fund.

7. No right of action exists in favor of any person by reason of any action or failure to act on the part of the ~~(Board, the Manager)~~ Director or any officers, employees or agents of the ~~(Board)~~ Department in carrying out the provisions of this section.

8. As used in this section, "person" includes a government and a governmental subdivision, agency or instrumentality.

Sec. 28. NRS 341.110 is hereby amended to read as follows:

341.110 In general, the ~~(Board)~~ Director and the Department shall have such powers as may be necessary to enable ~~it~~ them to fulfill ~~its~~ their functions and to carry out the purposes of this chapter.

Sec. 29. NRS 341.119 is hereby amended to read as follows:

341.119 1. Upon the request of the head of a state agency, the ~~{Board}~~ Director may delegate to that agency any of the authority granted to the ~~{Board}~~ Director or the Department pursuant to NRS 341.141 to 341.148, inclusive.

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the ~~{Board}~~ Director concerning a construction project or to approve the advance planning of a project.

Sec. 30. NRS 341.121 is hereby amended to read as follows:

341.121 The ~~{Board}~~ Director may, with the approval of the Interim Finance Committee, ~~{when the Legislature is not in regular or special session, or with the approval of the Legislature, by concurrent resolution, when the Legislature is in regular or special session,}~~ use grants of money received under authority of this chapter, unless otherwise limited by the conditions of any such grant, for:

1. The design and construction of public buildings or projects for which no appropriation has been made by the Legislature, or the acquisition of real property for such buildings or projects, or both.

2. Additional acquisition, design and construction costs on public buildings or projects, through appropriate contract procedures, for which the original legislative appropriation made no provision.

Sec. 31. NRS 341.125 is hereby amended to read as follows:

341.125 The ~~{Board}~~ Director, on behalf of the Department, is authorized to contract in the name of the State of Nevada with the United States or any of its agencies or instrumentalities, and to receive and expend by grant, loan or otherwise funds which may be made available by the United States or any of its agencies or instrumentalities.

Sec. 32. NRS 341.130 is hereby amended to read as follows:

341.130 The ~~{Board}~~ Director is authorized:

1. To participate in interstate, regional and national planning projects for the purpose of conserving and promoting public health and the safety, convenience and general welfare of the people.

2. Through ~~{its members or its staff,}~~ the staff of the Department, to confer and cooperate with federal officials and with the executive, legislative or planning authorities of neighboring states and of the counties and municipalities of such states.

Sec. 33. NRS 341.140 is hereby amended to read as follows:

341.140 The ~~{Board}~~ Director is authorized to use all reasonable means to promote public interest in the problems of state planning, and to that end may publish and distribute copies of ~~{its}~~ his reports and the reports of the Department and may employ other lawful means of publicity and education.

Sec. 34. NRS 341.141 is hereby amended to read as follows:

341.141 1. The ~~Board~~ Department shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

- (a) Buildings used in maintaining highways;
- (b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:
 - (1) In state parks by the State Department of Conservation and Natural Resources; or
 - (2) By the Department of Wildlife; and
- (c) Buildings on property controlled by other state agencies if the ~~Board~~ Director has delegated ~~its~~ his authority or the authority of the Department, as applicable, in accordance with NRS 341.119.

↪ The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

- (a) Preliminary planning;
- (b) Designing;
- (c) Estimating of costs; and
- (d) Preparation of detailed plans and specifications.

Sec. 35. NRS 341.142 is hereby amended to read as follows:

341.142 The ~~Board~~ Department may, with the approval of the Interim Finance Committee, ~~[when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session,]~~ plan a project in advance by preparing floor plans, cross sections, elevations, outlines of specifications, estimates of cost by category of work and perspective renderings of the project. The ~~Board~~ Department may submit preliminary or advance plans or designs to qualified architects or engineers for preparation of detailed plans and specifications if the ~~Board~~ Director considers it desirable. The cost of preparation of preliminary or advance plans or designs, the cost of detailed plans and specifications, and the cost of all architectural and engineering services are charges against the appropriations made by the Legislature for any state buildings or projects, or buildings or projects planned or contemplated by any state agency for which the Legislature has appropriated or may appropriate money. The costs must not exceed the limitations that are or may be provided by the Legislature.

Sec. 36. NRS 341.143 is hereby amended to read as follows:

341.143 For the purposes of the design and construction of buildings or other projects of this State, the ~~Board~~ Director shall adopt by regulation:

- 1. The seismic provisions of the International Building Code published by the International Code Council; and
- 2. Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.

Sec. 37. NRS 341.145 is hereby amended to read as follows:

341.145 The ~~Board~~ Director:

1. Has final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.
2. Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the ~~Board~~ Director shall apply for the rebate.
3. Shall solicit bids for and let all contracts for new construction or major repairs.
4. May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:
 - (a) The bid is less than the appropriation made by the Legislature for that building project; and
 - (b) The bid does not exceed the relevant budget item for that building project, as established by the ~~Board~~ Director, by more than 10 percent.
5. May reject any or all bids.
6. After the contract is let, shall supervise and inspect or cause the supervision and inspection of construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.
7. Shall obtain approval from the Interim Finance Committee ~~(when the Legislature is not in regular or special session, or from the Legislature by concurrent resolution when the Legislature is in regular or special session,~~ for any change in the scope of the design or construction of a project as that project was authorized by the Legislature. The ~~Board~~ Director shall adopt by regulation criteria for determining whether a change in the scope of the design or construction of a project requires such approval.
8. May authorize change orders, before or during construction:
 - (a) In any amount, where the change represents a reduction in the total awarded contract price.
 - (b) Except as otherwise provided in paragraph (c), not to exceed in the aggregate 10 percent of the total awarded contract price, where the change represents an increase in that price.
 - (c) In any amount, where the total awarded contract price is less than \$10,000 and the change represents an increase not exceeding the amount of the total awarded contract price.
9. Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the ~~Board~~ Department a change order that has been authorized by the design professional. As used in this subsection, "design professional" means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.
10. Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of

the State Government as completed or to require necessary alterations to conform to the contract or to codes adopted by the ~~Board~~ Director, and to file the notice of completion and certificate of occupancy for the building or structure.

Sec. 38. NRS 341.146 is hereby amended to read as follows:

341.146 1. The ~~Board~~ Director shall establish funds for projects of capital construction necessary to account for the program of capital construction approved by the Legislature. These funds must be used to account for all revenues, appropriations and expenditures restricted to constructing buildings and other projects which come under the supervision of the ~~Board~~ Department.

2. If a state department, board, commission or agency provides to the ~~Board~~ Department money that has not been appropriated by the Legislature for a capital improvement project, any interest earned on that money accrues to the benefit of the project. Upon a determination by the ~~Board~~ Director that the project is completed, the ~~Board~~ Department shall return any principal and interest remaining on that money to the department, board, commission or agency that had provided the money to the ~~Board~~ Department.

3. Except as otherwise provided in subsection 4, if the money actually received by the ~~Board~~ Department for a capital improvement project includes money from more than one source, the money must be expended in the following order:

- (a) Money received for the project from the Federal Government;
- (b) Money generated by the state department, board, commission or agency for whom the project is being performed;
- (c) Money that was approved for the same or a different project during a previous biennium that has been reallocated during the current biennium for the project;
- (d) Proceeds from the issuance of general obligation bonds;
- (e) Money from the State General Fund; and
- (f) Any other source of money for the project.

4. The provisions of subsection 3 do not apply if the receipt of any money from the Federal Government for the project is conditioned upon a different order of expenditure.

Sec. 39. NRS 341.148 is hereby amended to read as follows:

341.148 The ~~Board~~ Director shall advertise in a newspaper of general circulation in the State of Nevada for separate sealed bids for each construction project whose estimated cost is more than \$100,000. Approved plans and specifications for the construction must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. The ~~Board~~ Director may accept bids on either the whole or a part of the construction, equipment and furnishings of a construction project and may let separate contracts for different and separate portions of any project, or a combination contract for

structural, mechanical and electrical construction if savings will result to this State.

Sec. 40. NRS 341.149 is hereby amended to read as follows:

341.149 The construction of a capital improvement that is subject to the supervision of the ~~Board~~ Department pursuant to this chapter may not be begun unless the funding for the operation and maintenance of the improvement during the current fiscal year, including personnel, is included in the approved budget for the fiscal year in which construction is begun.

Sec. 41. NRS 341.151 is hereby amended to read as follows:

341.151 1. The ~~Board~~ Department shall provide for a system of accounting for the total costs of state buildings throughout their expected useful life, taking into account all expenses of maintenance and operation.

2. Each proposal for the construction of a state building must include:

(a) Figures showing the final total cost of the building, which is the sum of:

(1) Initial construction costs; and

(2) Operating costs for the expected useful life of the building, including maintenance, heating, lighting, air-conditioning, personnel and other expenses of operation; and

(b) A statement of the proposed source of funding for the final total cost of the building.

Sec. 42. NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the ~~Board~~ Director as provided in NRS 341.141 to 341.148, inclusive.

Sec. 43. NRS 341.155 is hereby amended to read as follows:

341.155 With the concurrence of the ~~Board~~ Director, the Board of Regents of the University of Nevada and any other state department, board or commission may enter into agreements with persons, associations or corporations to provide consulting services to determine and plan the construction work that may be necessary to meet the needs of the programs of those agencies. These contracts must be for a term not exceeding 5 years

and must provide for payment of a fee for those services not to exceed one-half of 1 percent of the total value of:

1. In the case of the Nevada System of Higher Education, building construction contracts relating to the construction of a branch or facility within the Nevada System of Higher Education; and

2. In the case of another state department, board or commission, all construction contracts relating to construction for that agency,
 ↪ during the term and in the area covered by the contract.

Sec. 44. NRS 341.158 is hereby amended to read as follows:

341.158 The provisions of NRS 341.141 to 341.155, inclusive, do not require the Legislative Branch of ~~government~~ State Government to use the services of the ~~Board~~ Department. The Legislature may require the ~~Board~~ Department to provide the services described in those sections for particular projects for the Legislative Branch of ~~government~~ State Government.

Sec. 45. NRS 341.161 is hereby amended to read as follows:

341.161 1. The ~~Board~~ Director may, with the approval of the Interim Finance Committee when the Legislature is not in regular or special session, or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session, let to a contractor licensed under chapter 624 of NRS a contract for services which assist the ~~Board~~ Department in the design and construction of a project of capital improvement.

2. The ~~Board~~ Director shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts, subject to the provisions of subsection 3.

(c) The awarding of construction contracts based on a final cost of the project which the contractor guarantees will not be exceeded.

(d) The scheduling and controlling of projects.

3. Bids on contracts for services which assist the ~~Board~~ Department in the design and construction of a project of capital improvement must state separately the contractor's cost for:

(a) Assisting the ~~Board~~ Department in the design and construction of the project.

(b) Obtaining all bids for subcontracts.

(c) Administering the construction contract.

4. A person who furnishes services under a contract awarded pursuant to subsection 1 is a contractor subject to all provisions pertaining to a contractor in title 28 of NRS.

Sec. 46. NRS 341.166 is hereby amended to read as follows:

341.166 1. The ~~Board~~ Director may, with the approval of the Interim Finance Committee when the Legislature is not in regular or special session,

or with the approval of the Legislature by concurrent resolution when the Legislature is in regular or special session, enter into a contract for services with a contractor licensed pursuant to chapter 624 of NRS to assist the ~~Board~~ **Department**:

(a) In the development of designs, plans, specifications and estimates of costs for a proposed construction project.

(b) In the review of designs, plans, specifications and estimates of costs for a proposed construction project to ensure that the designs, plans, specifications and estimates of costs are complete and that the project is feasible to construct.

2. The ~~Board~~ **Director** is not required to advertise for bids for a contract for services pursuant to subsection 1, but may solicit bids from not fewer than three licensed contractors and may award the contract to the lowest responsible and responsive bidder.

3. The ~~Board~~ **Director** shall adopt regulations establishing procedures for:

(a) The determination of the qualifications of contractors to bid for the contracts for services described in subsection 1.

(b) The bidding and awarding of such contracts.

4. If a proposed construction project for which a contractor is awarded a contract for services by the ~~Board~~ **Director** pursuant to subsection 1 is advertised pursuant to NRS 338.1385, that contractor may submit a bid for the contract for the proposed construction project if he is qualified pursuant to NRS 338.1375.

Sec. 47. NRS 341.185 is hereby amended to read as follows:

341.185 1. The ~~Board~~ **Director** shall, for each fiscal year, compile **or cause to be compiled** a report concerning projects of construction of state buildings that are financed by general obligation bonds, revenue bonds or medium-term obligations.

2. The report required to be compiled pursuant to subsection 1 must include:

(a) The source and amount of money received from the bonds and obligations during the fiscal year;

(b) A list of the projects completed during the fiscal year, including, without limitation, any change in the estimated cost of such a project and any change in the date for completion for such a project; and

(c) A list of projects under construction, the estimated cost of each of those projects, the date for completion of each of those projects and any changes in the estimated cost or date for completion of those projects.

3. The ~~Board~~ **Director** shall submit, in any format including an electronic format, a copy of the report compiled pursuant to subsection 1 on or before February 1 of the year next succeeding the period to which the report pertains to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature.

Sec. 48. NRS 341.191 is hereby amended to read as follows:

341.191 1. The ~~Board~~ Director shall submit reports and make recommendations relative to ~~its~~ his findings to the Governor and to the Legislature. The ~~Board~~ Director shall particularly recommend to the Governor and to the Legislature the priority of construction of any and all buildings or other construction work now authorized or that may hereafter be authorized or proposed.

2. The ~~Board~~ Director shall submit before October 1 of each even-numbered year ~~its~~ his recommendations for projects for capital improvements in the next biennium.

Sec. 49. NRS 341.201 is hereby amended to read as follows:

341.201 The ~~Board~~ Director shall, periodically, inspect or cause to be inspected all state buildings, ~~periodically,~~ including all buildings at the University of Nevada, Reno, and at the University of Nevada, Las Vegas, and all physical plant facilities at all state institutions. Reports of all inspections, including findings and recommendations, must be submitted to the appropriate state agencies and, if the ~~Board~~ Director finds any matter of serious concern in a report, ~~it~~ he shall submit that report to the Legislative Commission.

Sec. 50. NRS 341.211 is hereby amended to read as follows:

341.211 The ~~Board~~ Department shall:

1. Cooperate with other departments and agencies of the State in their planning efforts.

2. Advise and cooperate with municipal, county and other local planning commissions within the State to promote coordination between the State and the local plans and developments.

3. Cooperate with the Nevada Arts Council and the Buildings and Grounds Division of the Department of Administration to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 51. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislative Advisory Committee on Public Works, consisting of six legislative members, is hereby created. The membership of the Advisory Committee consists of:

(a) Three members appointed by the Majority Leader of the Senate from among the membership of the Senate Committee on Finance during the immediately preceding session of the Legislature, at least one of whom must be a member of the minority political party.

(b) Three members appointed by the Speaker of the Assembly from among the membership of the Assembly Committee on Ways and Means during the immediately preceding session of the Legislature, at least one of whom must be a member of the minority political party.

2. The Legislative Commission shall select the Chairman and Vice Chairman of the Advisory Committee from among the members of the Committee. After the initial selection of those officers, each of those

officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The chairmanship of the Advisory Committee must alternate each biennium between the Houses of the Legislature. If a vacancy occurs in the chairmanship or vice chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

3. A member of the Advisory Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next regular session of the Legislature.

4. A vacancy on the Advisory Committee must be filled in the same manner as the original appointment.

5. The members of the Advisory Committee shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the Advisory Committee. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary of the Advisory Committee.

6. Except during a regular or special session of the Legislature, for each day or portion of a day during which a member of the Advisory Committee attends a meeting of the Advisory Committee or is otherwise engaged in the work of the Advisory Committee, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

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

7. The Advisory Committee:

(a) May evaluate, review and comment upon all matters relating to the planning, design, construction and satisfactory completion of public works and capital improvement projects that are financed in whole or in part with money appropriated by the Legislature, including, without limitation, the review and approval of changes in the scope or funding of such public works and capital improvement projects.

(b) Shall make recommendations concerning the matters described in paragraph (a) to the Interim Finance Committee.

Sec. 52. NRS 232.219 is hereby amended to read as follows:

232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.

2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:

(a) ~~State Public Works Board;~~

- ~~(b)~~ Budget Division;
- ~~(c)~~ (b) Buildings and Grounds Division;
- ~~(d)~~ (c) Purchasing Division;
- ~~(e)~~ (d) Hearings Division;
- ~~(f)~~ (e) Risk Management Division;
- ~~(g)~~ (f) Division of Internal Audits; and
- ~~(h)~~ (g) If separately established, the Motor Pool Division.

3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.

4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.

Sec. 53. NRS 233C.025 is hereby amended to read as follows:

233C.025 1. The Nevada Arts Council is hereby created as a Division of the Department.

2. The Division is the sole and official agency of this State to receive and disburse any money made available to this State by the National Endowment for the Arts pursuant to 20 U.S.C. § 954.

3. The Division:

(a) Shall cooperate with the State Public Works ~~Board~~ Department and the Buildings and Grounds Division of the Department of Administration to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

(b) May request and must receive from any department, division, board, bureau, commission or agency of this State such assistance and data, as feasible and available, as will enable the Division to properly carry out the purposes of this chapter.

Sec. 54. NRS 239C.165 is hereby amended to read as follows:

239C.165 1. To the extent money is made available, the Commission shall, after consultation with the State Public Works ~~Board~~ Department, establish a statewide mapping system for the public buildings in this State for use by response agencies that are called to respond to an act of terrorism or related emergency.

2. The statewide mapping system must include, without limitation:

(a) The type of information that must be included within the software program that comprises the system, including, without limitation, floor plans, fire protection information, building evacuation plans, utility information, known hazards and information on how to contact emergency personnel;

(b) The manner by which the information prescribed pursuant to paragraph (a) must be transferred to the system from the state agencies and the political subdivisions that participate in the system;

(c) Standards for the software that must be used by the state agencies and political subdivisions that participate in the system;

(d) Conditions for use of the system by response agencies;

(e) Guidelines for:

(1) The accessibility and confidentiality of information contained within the system; and

(2) The incorporation, in connection with the use of the system, of the items described in paragraph (b) of subsection 3;

(f) In accordance with information obtained by the Commission, determine the priority for distribution of any money that may be available for the state agencies and political subdivisions to participate in the system; and

(g) Guidelines recommended by the Commission for the training of persons employed by response agencies concerning the use of the system.

3. To the extent money is made available, the state agencies and political subdivisions shall:

(a) Participate in the statewide mapping system; and

(b) Incorporate into their use of the system, without limitation:

(1) Evacuation routes and strategies for evacuation;

(2) Alarms and other signals or means of notification;

(3) Plans for sheltering in place; and

(4) Training and strategies for prevention in connection with attacks involving violence.

↪ If a state agency or a political subdivision uses its own building mapping system before the Commission establishes a statewide mapping system, the state agency or political subdivision may continue to use its system unless money is made available for the state agency or political subdivision to update or modify its system as necessary for inclusion in the statewide system.

4. The Commission:

(a) Shall pursue any money that may be available from the Federal Government for the development and operation of a statewide mapping system for public buildings and for the distribution of grants to the state agencies and political subdivisions that participate in the system.

(b) May accept gifts, grants and contributions for the development and operation of a statewide mapping system and for the distribution of grants to the state agencies and political subdivisions that participate in the system.

5. Each state agency and political subdivision that participates in the system shall, on or before July 1, 2006, and on or before July 1 of each year thereafter, submit to the Commission a progress report setting forth, in accordance with regulations adopted by the Commission, the experience of the agency or political subdivision, as applicable, with respect to its participation in the system. The Commission shall receive and process such progress reports and provide to the Legislative Commission a summarized overview of the system on or before October 1, 2006, and on or before October 1 of each year thereafter.

6. After the statewide mapping system is established pursuant to this section, each state agency and political subdivision that participates in the system shall submit to the Commission any initial or final plan for a public work.

7. As used in this section, “sheltering in place” means to remain inside a building, room, structure or other location during an emergency when egress may be impossible or when egress may present a more substantial risk than remaining inside the building, room, structure or other location, as applicable.

Sec. 55. NRS 284.173 is hereby amended to read as follows:

284.173 1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subsection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

- (1) Withholding of income taxes by the State;
- (2) Coverage for industrial insurance provided by the State;
- (3) Participation in group insurance plans which may be available to employees of the State;
- (4) Participation or contributions by either the independent contractor or the State to the Public Employees’ Retirement System;
- (5) Accumulation of vacation leave or sick leave; or
- (6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than \$2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board

of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than \$10,000 or, in contracts necessary to preserve life and property, for amounts less than \$25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

↪ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works ~~Board~~ Department or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

↪ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

Sec. 56. NRS 321.001 is hereby amended to read as follows:

321.001 1. The Division shall acquire and hold in the name of the State of Nevada all lands and interests in land owned or required by the State except:

(a) Lands or interests used or acquired for highway purposes;

(b) Lands or interests the title to which is vested in the Board of Regents of the University of Nevada;

(c) Offices outside state buildings leased by the Chief of the Buildings and Grounds Division of the Department of Administration for the use of state officers and employees; or

(d) Lands or interests used or acquired for the Legislature or its staff,
↪ and shall administer all lands it holds which are not assigned for administration to another state agency.

2. If additional land or an interest in land is required for the use of any state agency except the Department of Transportation or the Nevada System of Higher Education, the agency and the Division shall select land for use by the agency. The Division shall obtain the approval of the State Public Works ~~Board~~ Department if the land will be used for a building pursuant to NRS 341.141. The Division shall determine the value of that land and obtain the land or interest by negotiation or, if necessary, by exercising the State's power of eminent domain. Title must be taken in the name of the State of Nevada.

3. The Division may acquire and hold land and interests in land required for any public purpose, including the production of public revenue. Title must be taken in the name of the State of Nevada.

Sec. 57. NRS 331.100 is hereby amended to read as follows:

331.100 The Chief has the following specific powers and duties:

1. To keep all buildings, rooms, basements, floors, windows, furniture and appurtenances clean, orderly and presentable as befitting public property.

2. To keep all yards and grounds clean and presentable, with proper attention to landscaping and horticulture.

3. Under the supervision of the State Fire Marshal, to make arrangements for the installation and maintenance of water sprinkler systems, fire extinguishers, fire hoses and fire hydrants, and to take other fire prevention and suppression measures, necessary and feasible, that may reduce the fire hazards in all buildings under his control.

4. To make arrangements and provision for the maintenance of the state's water system supplying the state-owned buildings at Carson City, with particular emphasis upon the care and maintenance of water reservoirs, in order that a proper and adequate supply of water be available to meet any emergency.

5. To make arrangements for the installation and maintenance of water meters designed to measure accurately the quantity of water obtained from sources not owned by the State.

6. To make arrangements for the installation and maintenance of a lawn sprinkling system on the grounds adjoining the Capitol Building at Carson City, or on any other state-owned grounds where such installation is practical or necessary.

7. To investigate the feasibility, and economies resultant therefrom, if any, of the installation of a central power meter, to measure electrical energy used by the State buildings in the vicinity of and including the Capitol Building at Carson City, assuming the buildings were served with power as one unit.

8. To purchase, use and maintain such supplies and equipment as are necessary for the care, maintenance and preservation of the buildings and grounds under his supervision and control.

9. Subject to the provisions of chapter 426 of NRS regarding the operation of vending stands in or on public buildings and properties by blind persons, to install or remove vending machines and vending stands in the buildings under his supervision and control, and to have control of and be responsible for their operation.

10. To cooperate with the Nevada Arts Council and the State Public Works ~~(Board)~~ Department to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

Sec. 58. NRS 333A.080 is hereby amended to read as follows:

333A.080 1. The State Public Works ~~(Board)~~ Department shall determine those companies that satisfy the requirements of qualified service companies for the purposes of this chapter. In making such a determination, the State Public Works ~~(Board)~~ Department shall enlist the assistance of the staffs of the Office of Energy within the Office of the Governor, the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works ~~(Board)~~ Department shall prepare and issue a request for qualifications to not less than three potential qualified service companies.

2. In sending out a request for qualifications, the State Public Works ~~(Board)~~ Department:

(a) Shall attempt to identify at least one potential qualified service company located within this State; and

(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.

3. The State Public Works ~~(Board)~~ Department shall adopt, by regulation, criteria to determine those companies that satisfy the requirements of qualified service companies. The criteria for evaluation must include, without limitation, the following areas as substantive factors to assess the capability of such companies:

(a) Design;

(b) Engineering;

(c) Installation;

(d) Maintenance and repairs associated with performance contracts;

(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;

(f) Monitoring projects after the projects are installed;

(g) Data collection and reporting of savings;

(h) Overall project experience and qualifications;

(i) Management capability;

(j) Ability to access long-term financing;

(k) Experience with projects of similar size and scope; and

(l) Such other factors determined by the State Public Works ~~Board~~ Department to be relevant and appropriate to the ability of a company to perform the projects.

↪ In determining whether a company satisfies the requirements of a qualified service company, the State Public Works ~~Board~~ Department shall also consider whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.

4. The State Public Works ~~Board~~ Department shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.

Sec. 59. NRS 333A.082 is hereby amended to read as follows:

333A.082 1. The Purchasing Division of the Department of Administration shall work directly with any using agency interested in entering into a performance contract, using the list of qualified service companies compiled by the State Public Works ~~Board~~ Department pursuant to NRS 333A.080. The Purchasing Division, in conjunction with the using agency, shall ensure that each appropriate qualified service company is notified of the using agency's interest in entering into a performance contract and coordinate an opportunity for each such qualified service company to:

(a) Visit the site pertaining to which the using agency wishes to enter into a performance contract;

(b) Perform a comprehensive audit in the manner prescribed in NRS 333A.084; and

(c) Submit a proposal, including, without limitation, the comprehensive audit, and make a related presentation to the using agency for all operating cost-savings measures that the qualified service company determines would be practicable to implement.

2. The using agency shall:

(a) Evaluate the proposals and presentations made pursuant to subsection 1;

(b) Evaluate the financial stability of the qualified service companies that made proposals and presentations pursuant to subsection 1 based on the financial statements and ratings of the qualified service companies; and

(c) Select a qualified service company,

↪ pursuant to the provisions of this chapter and any regulations adopted pursuant thereto, for evaluating and awarding contracts.

3. A qualified service company selected by a using agency pursuant to subsection 2 shall prepare a financial-grade operational audit, which must include, without limitation:

(a) A detailed explanation of the operating cost savings that will result from the performance contract; and

(b) A comparison of the costs of implementing the operating cost-savings measures to the operating cost savings that are anticipated as a result of the performance contract.

4. Except as otherwise provided in this subsection, the financial-grade operational audit prepared by the qualified service company pursuant to subsection 3 becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the financial-grade operational audit shall be deemed to be part of the performance contract. If, after the financial-grade operational audit is prepared, the using agency decides not to execute the performance contract, the using agency shall pay the qualified service company that prepared the financial-grade operational audit the costs incurred by the qualified service company in preparing the financial-grade operational audit, if the Legislature has specifically appropriated money for that purpose. An appropriation by the Legislature for the purchase and installation of an operating cost-savings measure creates no presumption that the using agency for which the money was appropriated is required to enter into such a performance contract.

Sec. 60. NRS 353.185 is hereby amended to read as follows:

353.185 The powers and duties of the Chief are:

1. To appraise the quantity and quality of services rendered by each agency in the Executive Department of the State Government, and the needs for such services and for any new services.

2. To develop plans for improvements and economies in organization and operation of the Executive Department, and to install such plans as are approved by the respective heads of the various agencies of the Executive Department, or as are directed to be installed by the Governor or the Legislature.

3. To cooperate with the State Public Works ~~Board~~ **Department** in developing comprehensive, long-range plans for capital improvements and the means for financing them.

4. To devise and prescribe the forms for reports on the operations of the agencies in the Executive Department to be required periodically from the several agencies in the Executive Department, and to require the several agencies to make such reports.

5. To prepare the executive budget report for the Governor's approval and submission to the Legislature.

6. To prepare a proposed budget for the Executive Department of the State Government for the next 2 fiscal years, which must:

(a) Present a complete financial plan for the next 2 fiscal years;

(b) Set forth all proposed expenditures for the administration, operation and maintenance of the departments, institutions and agencies of the Executive Department of the State Government, including those operating on funds designated for specific purposes by the Constitution or otherwise, which must include a separate statement of:

(1) The anticipated expense, including personnel, for the operation and maintenance of each capital improvement to be constructed during the next 2 fiscal years and of each capital improvement constructed on or after July 1, 1999, which is to be used during those fiscal years or a future fiscal year; and

(2) The proposed source of funding for the operation and maintenance of each capital improvement, including personnel, to be constructed during the next 2 fiscal years;

(c) Set forth all charges for interest and debt redemption during the next 2 fiscal years;

(d) Set forth all expenditures for capital projects to be undertaken and executed during the next 2 fiscal years; and

(e) Set forth the anticipated revenues of the State Government, and any other additional means of financing the expenditures proposed for the next 2 fiscal years.

7. To examine and approve work programs and allotments to the several agencies in the Executive Department, and changes therein.

8. To examine and approve statements and reports on the estimated future financial condition and the operations of the agencies in the Executive Department of the State Government and the several budgetary units that have been prepared by those agencies and budgetary units, before the reports are released to the Governor, to the Legislature, or for publication.

9. To receive and deal with requests for information as to the budgetary status and operations of the executive agencies of the State Government.

10. To prepare such statements of unit costs and other statistics relating to cost as may be required from time to time, or requested by the Governor or the Legislature.

11. To do and perform such other and further duties relative to the development and submission of an adequate proposed budget for the Executive Department of the State Government of the State of Nevada as the Governor may require.

Sec. 61. NRS 353.550 is hereby amended to read as follows:

353.550 1. A state agency may propose a project to acquire real property, an interest in real property or an improvement to real property through an agreement which has a term, including the terms of any options for renewal, that extends beyond the biennium in which the agreement is executed if the agreement:

(a) Provides that all obligations of the State of Nevada and the state agency are extinguished by the failure of the Legislature to appropriate money for the ensuing fiscal year for payments due pursuant to the agreement;

(b) Does not encumber any property of the State of Nevada or the state agency except for the property that is the subject of the agreement;

(c) Provides that property of the State of Nevada and the state agency, except for the property that is the subject of the agreement, must not be forfeited if:

(1) The Legislature fails to appropriate money for payments due pursuant to the agreement; or

(2) The State of Nevada or the state agency breaches the agreement;

(d) Prohibits certificates of participation in the agreement; and

(e) For the biennium in which it is executed, does not require payments that are greater than the amount authorized for such payments pursuant to the applicable budget of the state agency.

2. The provisions of paragraph (d) of subsection 1 may be waived by the Board, upon the recommendation of the State Treasurer, if the Board determines that waiving those provisions:

(a) Is in the best interests of this State; and

(b) Complies with federal securities laws.

3. Before an agreement proposed pursuant to subsection 1 may become effective:

(a) The proposed project must be approved by the Legislature by concurrent resolution or statute or as part of the budget of the state agency, or by the Interim Finance Committee when the Legislature is not in regular session;

(b) The agency must submit the proposed agreement to the Chief, the State Treasurer, ~~and~~ the State Land Registrar and, if applicable, the Director of the State Public Works Department, for their review and transmittal to the Board;

(c) The Board must approve the proposed agreement; and

(d) The Governor must execute the agreement.

Sec. 62. NRS 385.125 is hereby amended to read as follows:

385.125 1. The State Board may adopt standard plans, designs and specifications for the construction of school buildings by the boards of trustees of the various school districts. If such plans, designs and specifications are adopted, provision must be made for the production and distribution of such plans, designs and specifications by appropriate rules and regulations. The board of trustees of a school district may use any such plans, designs and specifications if it determines that the plans, designs and specifications are in the best interests of the district.

2. Before the adoption of any such standard plans, designs and specifications, the State Board shall submit the plans, designs and specifications to the State Public Works ~~Board,~~ Department, whose written approval thereof must be obtained before any further consideration by the State Board. The State Public Works ~~Board,~~ Department shall verify that the plans, designs and specifications comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal

Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

3. The State Public Works ~~Board~~ Department may charge and collect and the State Board may pay a reasonable fee for the costs incurred by the State Public Works ~~Board~~ Department in approving the standard plans, designs and specifications submitted.

Sec. 63. NRS 387.3335 is hereby amended to read as follows:

387.3335 1. The board of trustees of a school district may apply to the Director of the Department of Administration for a grant of money from the Fund created pursuant to NRS 387.333 on a form provided by the Director of the Department of Administration. The application must be accompanied by proof that the following emergency conditions exist within the school district:

(a) The assessed valuation of the taxable property in the county in which the school district is located is declining and all other resources available to the school district for financing capital improvements are diminishing;

(b) The combined ad valorem tax rate of the county is at the limit imposed by NRS 361.453; and

(c) At least:

(1) One building that is located on the grounds of a school within the school district has been condemned;

(2) One of the facilities that is located on the grounds of a school within the school district is unsuitable for use as a result of:

(I) Structural defects;

(II) Barriers to accessibility; or

(III) Hazards to life, health or safety, including, without limitation, environmental hazards and the operation of the facility in an unsafe manner;

or

(3) One of the facilities that is located on the grounds of a school within the school district is in such a condition that the cost of renovating the facility would exceed 40 percent of the cost of constructing a new facility.

2. Upon receipt of an application submitted pursuant to subsection 1, the Director of the Department of Administration shall forward the application to the:

(a) Department of Taxation to determine whether or not:

(1) The application satisfies the showing of proof required pursuant to paragraphs (a) and (b) of subsection 1; and

(2) The board of county commissioners in the county in which the school district is located has imposed a tax of more than one-eighth of 1 percent pursuant to NRS 377B.100;

(b) State Public Works ~~Board~~ Department to determine whether the application satisfies the showing of proof required pursuant to paragraph (c) of subsection 1; and

(c) Department of Education for informational purposes.

3. The Department of Taxation and the State Public Works ~~(Board)~~ **Department** shall submit written statements of their determinations pursuant to subsection 2 regarding an application to the Director of the Department of Administration. Upon receipt of such statements, the Director shall submit the application accompanied by the written statements from the Department of Taxation and State Public Works ~~(Board)~~ **Department** to the State Board of Examiners for approval.

4. The Director of the Department of Administration shall make grants from the Fund created pursuant to NRS 387.333 based upon the need of each school district whose application is approved by the State Board of Examiners.

5. The Director of the Department of Administration shall adopt regulations that prescribe the annual deadline for submission of an application to the Director of the Department of Administration by a school district that desires to receive a grant of money from the Fund.

Sec. 64. NRS 393.110 is hereby amended to read as follows:

393.110 1. Each school district shall, in the design, construction and alteration of school buildings and facilities comply with the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if a school district complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

2. Except as otherwise provided in subsection 3:

(a) Unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building, the board of trustees of a school district shall submit plans, designs and specifications therefor to, and obtain the written approval of the plans, designs and specifications by, the State Public Works ~~(Board)~~ **Department**. The State Public Works ~~(Board)~~ **Department** shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works ~~(Board)~~ **Department** is authorized to charge and collect, and the board of trustees is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works ~~(Board)~~ **Department** in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.

(b) Before letting any contract or contracts for any addition to or alteration of an existing school building which involves structural systems, or exiting, sanitary or fire protection facilities, the board of trustees of a school district shall submit plans, designs and specifications therefor to, and obtain the

written approval of the plans, designs and specifications by, the State Public Works ~~Board~~ Department. The State Public Works ~~Board~~ Department shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works ~~Board~~ Department is authorized to charge and collect, and the board of trustees is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works ~~Board~~ Department in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.

↪ The State Public Works ~~Board~~ Department shall verify that all plans, designs and specifications that it reviews pursuant to this section comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

3. The State Public Works ~~Board~~ Department may enter into an agreement with the appropriate building department of a county or city to review plans, designs and specifications of a school district pursuant to subsection 2. If the State Public Works ~~Board~~ Department enters into such an agreement, the board of trustees of the school district shall submit a copy of its plans, designs and specifications for any project to which subsection 2 applies to the building department before commencement of the project for the approval of the building department. The building department shall review the plans, designs and specifications and provide responsive comment as expeditiously as practicable to verify that the plans, designs and specifications comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., inclusive, and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The building department may charge and collect a reasonable fee from the board of trustees of the school district for the payment of any costs incurred by the building department in reviewing the plans, designs and specifications. A permit for construction must not be issued without the approval of the building department pursuant to this subsection. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

4. No contract for any of the purposes specified in subsection 1 made by a board of trustees of a school district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to or altering any school building in contravention of this section.

Sec. 65. NRS 412.098 is hereby amended to read as follows:

412.098 The construction, expansion, rehabilitation or conversion of armories and arsenals in this State shall be accomplished by the State Public Works ~~Board~~ Department, subject to the inspection and approval of the Secretary of Defense, as prescribed by 10 U.S.C. § 2237 when federal funds have been allocated to the State for such work.

Sec. 66. NRS 444.340 is hereby amended to read as follows:

444.340 The policy of the State of Nevada with respect to the uniformity of plumbing codes throughout the State is:

1. That uniformity is a matter of statewide interest and concern, affecting health and environmental conditions, housing costs and efficiency in private housing construction.

2. That, by allowing local governments to waive and modify provisions of the Uniform Plumbing Code, adopted by the International Association of Plumbing and Mechanical Officials, based on differences in geographic and climatic conditions only upon submission of such proposed waivers and modifications to the State Public Works ~~Board~~ Department, excessive waivers and modifications would be deterred.

Sec. 67. NRS 444.350 is hereby amended to read as follows:

444.350 1. Any construction, alteration or change in the use of a building or other structure in this State must be in compliance with the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials in the form most recently adopted by that Association, unless the State Public Works ~~Board~~ Department posts a notice of disapproval of any amendment to the Code pursuant to subsection 5.

2. Any city or county may adopt such modifications as are deemed reasonably necessary because of its geographic, topographic or climatic conditions. Any city or county desiring to make changes to the Uniform Plumbing Code must, before its adoption, submit the Code with the proposed amendments to the State Public Works ~~Board~~ Department.

3. No city or county may allow the use of any solder or flux that contains more than 0.2 percent lead or allow the use of any pipe or pipe fitting that contains more than 8 percent lead in the installation or repair of a public water system or any residence or facility connected to a public water system. As used in this subsection, "public water system" has the meaning ascribed to it in NRS 445A.840.

4. A facility used by members of the public whose construction or renovation begins on or after January 1, 1994, must provide on its premises a sufficient number of water closets and urinals to comply with the minimum standards set forth in the Uniform Plumbing Code. As used in this subsection, "facility used by members of the public" means any motion

picture house, theater, concert hall, community hall, sports arena, stadium, ski resort or other permanent place of exhibition or entertaining to which members of the public are invited or which is intended for public use. The term does not include:

- (a) A hotel as defined in NRS 447.010.
- (b) A food establishment as defined in NRS 446.020.
- (c) A children's camp as defined in NRS 444.220.
- (d) A historic structure as defined in NRS 244A.6825.
- (e) A public or private school.
- (f) A convention hall.

5. The ~~{Chairman}~~ **Director** of the State Public Works ~~{Board}~~ **Department** or his designee shall review each amendment to the Uniform Plumbing Code and approve or disapprove of the amendment for use in Nevada. If the ~~{Chairman}~~ **Director** does not post a notice of disapproval within 30 days after an amendment is published, the amendment shall be deemed approved for this State.

6. As used in this section, unless the context otherwise requires, "convention hall" means a facility which incorporates both space for exhibitions and a substantial number of smaller spaces for meetings, and which is primarily for use by trade shows, public shows, conventions or related activities.

Sec. 68. NRS 444.420 is hereby amended to read as follows:

444.420 The State Public Works ~~{Board}~~ **Department** shall:

1. Review all proposed adoptions of the Uniform Plumbing Code by any city or county and any proposed changes to the Uniform Plumbing Code, and advise such city or county on whether or not such change is deemed warranted by geographic, topographic or climatic conditions.

2. Submit a copy of the Uniform Plumbing Code adopted by any city or county to the Health Division.

Sec. 69. NRS 444.430 is hereby amended to read as follows:

444.430 1. The governing body of any city or county shall, 60 days prior to the adoption of any regulation for the enforcement of the Uniform Plumbing Code or any other regulations pursuant thereto, deliver by certified or registered mail, a copy of the proposed regulation to the State Public Works ~~{Board}~~ **Department** for the ~~{Board's}~~ **Department's** recommendation on the proposed regulation.

2. The governing body of the city or county may, 60 days after the State Public Works ~~{Board}~~ **Department** receives the copy of the proposed regulation, adopt the regulation with or without the approval of the State Public Works ~~{Board}~~ **Department**.

Sec. 70. NRS 445B.200 is hereby amended to read as follows:

445B.200 1. The State Environmental Commission is hereby created within the Department. The Commission consists of:

- (a) The Director of the Department of Wildlife;
- (b) The State Forester Firewarden;

- (c) The State Engineer;
- (d) The Director of the State Department of Agriculture;
- (e) The Administrator of the Division of Minerals of the Commission on Mineral Resources;
- (f) A member of the State Board of Health to be designated by that Board; and
- (g) Five members appointed by the Governor, one of whom is a general engineering contractor or a general building contractor licensed pursuant to chapter 624 of NRS and one of whom possesses expertise in performing mining reclamation.

2. The Governor shall appoint the Chairman of the Commission from among the members of the Commission.

3. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

4. Each member who is appointed by the Governor is entitled to receive a salary of not more than \$80, as fixed by the Commission, for each day's attendance at a meeting of the Commission.

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

6. Any person who receives or has received during the previous 2 years a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by NRS 445A.300 to 445A.730, inclusive, is disqualified from serving as a member of the Commission. The provisions of this subsection do not apply to any person who receives, or has received during the previous 2 years, a significant portion of his income from any department or agency of State Government which is a holder of or an applicant for a permit required by NRS 445A.300 to 445A.730, inclusive.

7. The Department shall provide technical advice, support and assistance to the Commission. All state officers, departments, commissions and agencies, including the Department of Transportation, the Department of Health and Human Services, the Nevada System of Higher Education, the State Public Works ~~Board,~~ Department, the Department of Motor Vehicles, the Department of Public Safety, the Public Utilities Commission of Nevada, the Transportation Services Authority and the State Department of Agriculture may also provide technical advice, support and assistance to the Commission.

Sec. 71. NRS 463.385 is hereby amended to read as follows:

463.385 1. In addition to any other license fees and taxes imposed by this chapter, there is hereby imposed upon each slot machine operated in this State an annual excise tax of \$250. If a slot machine is replaced by another, the replacement is not considered a different slot machine for the purpose of imposing this tax.

2. The Commission shall:

(a) Collect the tax annually on or before June 30, as a condition precedent to the issuance of a state gaming license to operate any slot machine for the ensuing fiscal year beginning July 1, from a licensee whose operation is continuing.

(b) Collect the tax in advance from a licensee who begins operation or puts additional slot machines into play during the fiscal year, prorated monthly after July 31.

(c) Include the proceeds of the tax in its reports of state gaming taxes collected.

3. Any other person, including, without limitation, an operator of an inter-casino linked system, who is authorized to receive a share of the revenue from any slot machine that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the license fees paid by the licensee pursuant to this section and shall remit or credit the full proportionate share to the licensee on or before the dates set forth in subsection 2. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any slot machine that is operated on the premises of a licensee for that person's proportionate share of the license fees to be remitted or credited to the licensee by that person pursuant to this section.

4. The Commission shall pay over the tax as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund, and the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education, which are hereby created in the State Treasury as special revenue funds, in the amounts and to be expended only for the purposes specified in this section.

5. During each fiscal year, the State Treasurer shall deposit the tax paid over to him by the Commission as follows:

(a) The first \$5,000,000 of the tax in the Capital Construction Fund for Higher Education;

(b) Twenty percent of the tax in the Special Capital Construction Fund for Higher Education; and

(c) The remainder of the tax in the State Distributive School Account in the State General Fund.

6. There is hereby appropriated from the balance in the Special Capital Construction Fund for Higher Education on July 31 of each year the amount necessary to pay the principal and interest due in that fiscal year on the bonds issued pursuant to section 5 of chapter 679, Statutes of Nevada 1979, as amended by chapter 585, Statutes of Nevada 1981, at page 1251, the bonds authorized to be issued by section 2 of chapter 643, Statutes of Nevada 1987, at page 1503, the bonds authorized to be issued by section 2 of chapter 614, Statutes of Nevada 1989, at page 1377, the bonds authorized to be issued by section 2 of chapter 718, Statutes of Nevada 1991, at page 2382, and the bonds authorized to be issued by section 2 of chapter 629, Statutes of Nevada

1997, at page 3106. If in any year the balance in that fund is not sufficient for this purpose, the remainder necessary is hereby appropriated on July 31 from the Capital Construction Fund for Higher Education. The balance remaining unappropriated in the Capital Construction Fund for Higher Education on August 1 of each year and all amounts received thereafter during the fiscal year must be transferred to the State General Fund for the support of higher education. If bonds described in this subsection are refunded and if the amount required to pay the principal of and interest on the refunding bonds in any fiscal year during the term of the bonds is less than the amount that would have been required in the same fiscal year to pay the principal of and the interest on the original bonds if they had not been refunded, there is appropriated to the Nevada System of Higher Education an amount sufficient to pay the principal of and interest on the original bonds, as if they had not been refunded. The amount required to pay the principal of and interest on the refunding bonds must be used for that purpose from the amount appropriated. The amount equal to the saving realized in that fiscal year from the refunding must be used by the Nevada System of Higher Education to defray, in whole or in part, the expenses of operation and maintenance of the facilities acquired in part with the proceeds of the original bonds.

7. After the requirements of subsection 6 have been met for each fiscal year, when specific projects are authorized by the Legislature, money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education must be transferred by the State Controller and the State Treasurer to the State Public Works ~~Board~~ Department for the construction of capital improvement projects for the Nevada System of Higher Education, including, but not limited to, capital improvement projects for the community colleges of the Nevada System of Higher Education. As used in this subsection, "construction" includes, but is not limited to, planning, designing, acquiring and developing a site, construction, reconstruction, furnishing, equipping, replacing, repairing, rehabilitating, expanding and remodeling. Any money remaining in either Fund at the end of a fiscal year does not revert to the State General Fund but remains in those Funds for authorized expenditure.

8. The money deposited in the State Distributive School Account in the State General Fund under this section must be apportioned as provided in NRS 387.030 among the several school districts and charter schools of the State at the times and in the manner provided by law.

9. The Board of Regents of the University of Nevada may use any money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education for the payment of interest and amortization of principal on bonds and other securities, whether issued before, on or after July 1, 1979, to defray in whole or in part the costs of any capital project authorized by the Legislature.

Sec. 72. NRS 477.035 is hereby amended to read as follows:

477.035 1. The State Fire Marshal shall:

(a) Inspect or cause to be inspected annually, all state buildings and order such fire-extinguishing and safety appliances as he deems necessary for the protection of the property against fire.

(b) Order the removal of combustibles and rubbish from the property, or order such changes in the entrances or exits of the buildings as will promote the safety of the occupants, or order the provision of such fire escapes as he may deem necessary.

(c) Provide inspection forms and maintain records of inspections of state-owned or state-occupied buildings.

2. If the agency in charge of any state property fails to comply with the order of the State Fire Marshal for any structural change within 30 days after the receipt of such order, the Fire Marshal shall report such failure to the State Public Works ~~(Board)~~ Department. The State Public Works ~~(Board)~~ Department shall thereupon take necessary steps to correct the situation as ordered.

3. The State Fire Marshal may contract with local authorities for the inspection of state-owned or state-occupied buildings.

Sec. 73. NRS 701.217 is hereby amended to read as follows:

701.217 1. The Director, in consultation with the State Public Works ~~(Board)~~ Department and any other interested agency, shall:

(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.

(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5. With regard to buildings or structures that are not public buildings or structures, the Green Building Rating System adopted by the Director is to be used only for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use the Green Building Rating System.

2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:

(a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;

(b) Standards for indoor environmental quality;

(c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;

(d) Standards for the efficient use of energy; and

(e) Requirements for the design and preparation of building lots.

3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.

4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:

- (a) The gathering and development of scientific data;
- (b) Comments from representatives of the building industry;
- (c) Consensus from representatives of the building industry;
- (d) A method by which the Director, the State Public Works ~~Board~~ **Department** and other interested agencies may cast ballots on the proposed standards;
- (e) A pilot program for the purpose of refining the standards; and
- (f) A process by which an aggrieved person may file an appeal of the standards adopted.

5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

Sec. 74. NRS 341.013, 341.015, 341.030, 341.041 and 341.060 are hereby repealed.

Sec. 75. 1. The Director of the State Public Works Department, in consultation with the Legislative Advisory Committee on Public Works created pursuant to section 51 of this act, shall establish a pilot program to determine the efficacy and feasibility of using privatized construction project management services and privatized construction project inspection services in connection with public works projects which are sponsored by the State Public Works Department.

2. The pilot program described in subsection 1 must include, without limitation:

(a) At least one demonstration project in which a public work sponsored by the State Public Works Department is constructed using privatized construction project management services and privatized construction project inspection services.

(b) An analysis of the costs and benefits associated with the use of privatized construction project management services and privatized construction project inspection services.

(c) Such other components as the Legislative Advisory Committee on Public Works may direct.

Sec. 76. This act must not be construed to impair any existing rights under contracts executed by or on behalf of the State Public Works Board, which contracts are in effect on July 1, 2007.

Sec. 77. Any lawful regulations adopted by the State Public Works Board before July 1, 2007, are valid and effective:

- 1. Through June 30, 2008; or**

2. Until replaced by new regulations adopted by the Director of the State Public Works Department,

↳ whichever is earlier.

Sec. 78. 1. The Legislative Counsel shall:

(a) In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

(b) In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.

2. Any reference in a bill or resolution passed by the 74th Session of the Nevada Legislature to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency shall be deemed to refer to the officer or agency to which the responsibility is transferred.

Sec. 79. This act becomes effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

341.013 "Board" defined.

341.015 "Manager" defined.

341.030 Terms of members.

341.041 Replacement of members.

341.060 Organization; election of officers.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 335.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 604.

SUMMARY—Makes various changes related to ~~(elective offices.)~~ **public office.** (BDR 24-1195)

AN ACT relating to ~~(elections.)~~ **public office**; prescribing the period during which elected **and certain appointed** public officers may solicit and accept campaign contributions; requiring the Secretary of State to design a single form to be used for all statements of financial disclosure and reports of campaign contributions and expenditures; **requiring that certain reports concerning elections, campaign finance and the financial disclosure of public officers be made available to the public on the Internet**; amending the definition of "gift"; requiring governing bodies of local governments to

regulate the activities of lobbyists in their jurisdictions; requiring that statements of financial disclosure be submitted to filing officers and made available to the public; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~11~~ **2** of this bill prohibits an elected public officer, or a public officer appointed to fill the unexpired term of an elected public officer, from soliciting or accepting a campaign contribution except during the period beginning 12 months before the date of ~~the~~ **each** general election and ending 3 months after the date of ~~the~~ **each** general election. **Section 1 of this bill does not apply to Legislators, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect.**

Existing law requires the Commission on Ethics to design the form used for statements of financial disclosure that are required to be submitted by public officers pursuant to NRS 281.559 and 281.561. (NRS 281.471) Existing law also requires public officers to submit statements of financial disclosure to the Commission on Ethics. (NRS 281.559, 281.561) Section ~~12~~ **6** of this bill requires the Secretary of State to design a single form to be used for all statements of financial disclosure and all campaign expenditure and contribution reports. **Such form must be available on the Secretary of State's Internet website.** Sections ~~19 and 20~~ **26 and 27** of this bill require certain public officers and candidates for public office to submit statements of financial disclosure to filing officers. **Sections 1, 3-8, 26 and 27 of this bill also require various forms concerning elections, campaign finance and financial disclosure, and the information contained in those completed forms, to be available on the Internet website of the Secretary of State.** Section ~~14~~ **17** of this bill defines "filing officer" as the Secretary of State, county or city clerk or any other officer authorized by law to receive designations and declarations of candidacy, certificates and acceptances of nominations or any other nomination papers.

Sections ~~4 and 12~~ **10 and 18** of this bill provide that ~~the cost of attending an event hosted or conducted by a charitable~~ **costs and expenses associated with the attendance at an event relating to public office or at an event that benefits an organization that is exempt from the provisions of section 501(c) of the Internal Revenue Code** is not a "gift" for purposes of lobbying and the code of ethical standards for public officers and employees.

Sections ~~5 and 7~~ **11 and 13** of this bill require the governing bodies of **certain** local governments to regulate the activities of lobbyists who lobby elected officers **or certain appointed officers** of those local governments.

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

Section 1. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, ~~294A.128~~, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

~~{Section 1}~~ **Sec. 2.** Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is unlawful for an elected public officer or a public officer appointed to fill the unexpired term of an elected public officer to solicit or accept any contribution, or solicit or accept a commitment to make such a contribution, except during the period:

(a) Beginning 12 months before the date of ~~the~~ each general election; and

(b) ~~Except as otherwise provided in subsection 2, ending~~ Ending 3 months after the date of ~~the~~ each general election.

2. ~~Notwithstanding the provisions of subsection 1, a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor Elect, the Governor and the Governor Elect may not solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the periods set forth in NRS 294A.300.~~

~~3-~~ **As used in this section:**

(a) "General election" means:

(1) If the elected public officer or public officer appointed to fill the unexpired term of an elected public officer is a city official, the general city election held pursuant to NRS 293C.140.

(2) If the elected public officer or public officer appointed to fill the unexpired term of an elected public officer is not a city official, the general election held pursuant to NRS 293.12755.

(b) "Public officer" ~~means~~ :

(1) Except as otherwise provided in subparagraph (2), means a person elected or appointed to a position which:

~~##~~ **(I) Is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; and**

~~##~~ **(II) Involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.**

(2) Does not include any person who is subject to the provisions of NRS 294A.300.

Sec. 3. NRS 294A.128 is hereby amended to read as follows:

294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:

(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;

(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and

(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

5. Within a reasonable time after the Secretary of State receives a report or copy of a report pursuant to this section, the Secretary of State shall post the report on his Internet website.

Sec. 4. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.

2. The form must require:

(a) The name of the committee;

- (b) The purpose for which it was organized;
- (c) The names, addresses and telephone numbers of its officers;
- (d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;
- (e) The name, address and telephone number of its resident agent; and
- (f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State an amended form for registration within 30 days after any change in the information contained in the form for registration.

4. The Secretary of State shall include on his Internet website ~~the~~ :

(a) The information required pursuant to subsection 2 ~~is~~ within a reasonable time after he receives the information; and

(b) The form for registering a committee for political action.

Sec. 5. NRS 294A.250 is hereby amended to read as follows:

294A.250 **1.** Each committee for the recall of a public officer shall register with the Secretary of State, on a form provided by him. Each form must include:

~~1.~~ **(a)** The name of the committee;

~~2.~~ **(b)** The purpose for which it was organized;

~~3.~~ **(c)** The names and addresses of its officers; and

~~4.~~ **(d)** If the committee is organized and located outside this State, the name and address of its resident agent.

2. The Secretary of State shall include on his Internet website the form for registering a committee for the recall of a public officer and, within a reasonable time after receiving the information, the information required to be included on the form by each committee for the recall of a public officer pursuant to subsection 1.

~~Sec. 2.~~ **Sec. 6. NRS 294A.373 is hereby amended to read as follows:**

294A.373 **1.** The Secretary of State shall design a single form to be used for all ~~reports~~ :

(a) Reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~is~~; **and**

(b) Financial disclosure statements that are required to be filed pursuant to NRS 281.559 and 281.561.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report *or statement* described in subsection 1. **The Secretary of State shall also make the form designed pursuant to this section available on his Internet website.**

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before ~~providing~~ :

(a) Providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form ~~for~~; **and**

(b) Making the form designed or revised by the Secretary of State pursuant to this section available on his Internet website.

Sec. 7. NRS 294A.380 is hereby amended to read as follows:

294A.380 1. The Secretary of State may adopt and promulgate regulations, prescribe forms in accordance with the provisions of this chapter and take such other actions as are necessary for the implementation and effective administration of the provisions of this chapter.

2. For the purposes of implementing and administering the provisions of this chapter regulating committees for political action:

(a) The Secretary of State shall, in determining whether an entity or group is a committee for political action, consider a group's or entity's division or separation into units, sections or smaller groups only if it appears that such division or separation was for a purpose other than for avoiding the reporting requirements of this chapter.

(b) The Secretary of State shall, in determining whether an entity or group is a committee for political action, disregard any action taken by a group or entity that would otherwise constitute a committee for political action if it appears such action is taken for the purpose of avoiding the reporting requirements of this chapter.

3. The Secretary of State shall:

(a) Make available on his Internet website any form he prescribes pursuant to subsection 1; and

(b) Within a reasonable time after he receives any such completed form, post the completed form on his Internet website.

Sec. 8. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, prepare and make available for public inspection, **including, without limitation, on his Internet website,** a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.

(c) Group of persons advocating the election or defeat of a candidate.

(d) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.

(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

~~[Sec. 3.]~~ **Sec. 9.** NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 *or section 1 of this act* is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a

candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

~~{Sec. 4.}~~ **Sec. 10.** NRS 218.908 is hereby amended to read as follows:
218.908 1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.

2. "Gift" does not include ~~{a}:~~

~~(a) A~~ **A** political contribution of money or services related to a political campaign ~~{, or}:~~

~~(b) A~~ **A** commercially reasonable loan made in the ordinary course of business ~~{,} {cost of entertainment, including} {the cost of attendance at an event hosted or conducted by a charitable organization, the}:~~

~~(c) The~~ **The** cost of food or beverages ~~{, or anything}:~~

~~(d) Anything~~ **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 ~~{third} {fifth}~~ degree of consanguinity or from the spouse of any such relative ~~{,}~~
~~As used in this subsection, "charitable organization" means an} ; or~~

~~(e) Costs and expenses associated with the attendance of a member of the Legislative Branch, or the spouse or guest of such a member of the Legislative Branch, at an event relating to public office or at an event that benefits an organization which the Secretary of the Treasury has determined is an exempt organization pursuant to the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).~~

~~{Sec. 5.}~~ **Sec. 11.** Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each board of county commissioners shall enact ordinances that regulate the activities of lobbyists who lobby ~~{elected}:~~

(a) Elected officers of the county; or

(b) Appointed officers of the county ~~{, Such} who the board of county commissioners has determined have policymaking authority.~~

2. The ordinances required pursuant to subsection 1 must set forth ~~{registration}:~~

(a) Registration and reporting requirements for such lobbyists and provide that reports submitted by lobbyists are open to public inspection.

(b) Standards for elected and appointed officers of the county relating to the acceptance and disclosure of contributions from persons who have a personal interest in a matter before the elected or appointed officer.

~~{Sec. 6.}~~ **Sec. 12.** NRS 245.110 is hereby amended to read as follows:

245.110 The provisions of the Nevada Ethics in Government Law , ~~{}~~ NRS 281.411 to 281.581, inclusive ~~{}~~ , **and sections ~~{11 and 12}~~ 17 and 18 of this act** do not prohibit any county officer from purchasing the warrants of the State or of any other county, or to prevent any county officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

~~{Sec. 7.}~~ **Sec. 13.** Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each city council shall adopt ordinances that regulate the activities of lobbyists who lobby ~~{elected}~~ :

(a) Elected officers of the city ~~{such}~~ ; or

(b) Appointed officers of the city whom the city council has determined have policymaking authority.

2. The ordinances required pursuant to subsection 1 must set forth ~~{registration}~~ :

(a) Registration and reporting requirements for such lobbyists and provide that reports submitted by lobbyists are open to public inspection.

(b) Standards for elected and appointed officers of the city relating to the acceptance and disclosure of contributions from persons who have a personal interest in a matter before the elected or appointed officer.

~~{Sec. 8.}~~ **Sec. 14.** NRS 268.380 is hereby amended to read as follows:

268.380 The provisions of the Nevada Ethics in Government Law , ~~{}~~ NRS 281.411 to 281.581, inclusive ~~{}~~ , **and sections ~~{11 and 12}~~ 17 and 18 of this act** do not prohibit any city officer from purchasing the warrants of the State or of any other city or county, or prevent any city officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

~~{Sec. 9.}~~ **Sec. 15.** NRS 269.070 is hereby amended to read as follows:

269.070 The provisions of the Nevada Ethics in Government Law , ~~{}~~ NRS 281.411 to 281.581, inclusive ~~{}~~ , **and sections ~~{11 and 12}~~ 17 and 18 of this act** do not prohibit any town officer from purchasing the warrants of the State or of any other city, town or county, or prevent any town officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

~~{Sec. 10.}~~ **Sec. 16.** Chapter 281 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{11 and 12}~~ 17 and 18 of this act.

~~{Sec. 11.}~~ **Sec. 17.** "Filing officer" means the Secretary of State, county or city clerk or any other officer authorized by law to receive designations and declarations of candidacy, certificates and acceptances of nomination or any other nomination papers.

~~{Sec. 12.}~~ **Sec. 18. 1.** "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.

2. "Gift" does not include ~~{a.}~~;

(a) A political contribution of money or services related to a political campaign ~~{, or}~~;

(b) A commercially reasonable loan made in the ordinary course of business ~~{, the cost of attendance at an event hosted or conducted by a charitable organization, the}~~;

(c) The cost of food or beverages ~~{, or anything}~~;

(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 ~~{third}~~ fifth degree of consanguinity or from the spouse of any such relative ~~{, as used in this subsection, "charitable organization" means}~~; 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).

~~{Sec. 13.}~~ **Sec. 19.** NRS 281.005 is hereby amended to read as follows:

281.005 As used in this chapter:

1. Except as limited for the purposes of NRS 281.411 to 281.581, inclusive, **and sections ~~{11 and 12}~~ 17 and 18 of this act**, "public officer" means a person elected or appointed to a position which:

(a) Is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; and

(b) Involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.

2. "Special use vehicle" means any vehicle designed or used for the transportation of persons or property off paved highways.

~~{Sec. 14.}~~ **Sec. 20.** NRS 281.411 is hereby amended to read as follows:

281.411 NRS 281.411 to 281.581, inclusive, **and sections ~~{11 and 12}~~ 17 and 18 of this act** may be cited as the Nevada Ethics in Government Law.

~~{Sec. 15.}~~ **Sec. 21.** NRS 281.431 is hereby amended to read as follows:

281.431 As used in NRS 281.411 to 281.581, inclusive, **and sections ~~{11 and 12}~~ 17 and 18 of this act**, unless the context otherwise requires, the words and terms defined in NRS 281.432 to 281.4375, inclusive, **and sections ~~{11 and 12}~~ 17 and 18 of this act** have the meanings ascribed to them in those sections.

~~{Sec. 16.}~~ **Sec. 22.** NRS 281.4647 is hereby amended to read as follows:

281.4647 1. Each county whose population is more than 10,000 and each city whose population is more than 10,000 and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to NRS 281.411 to 281.581, inclusive ~~[]~~, **and sections ~~11 and 12~~ 17 and 18 of this act**. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out NRS 281.411 to 281.581, inclusive, **and sections ~~11 and 12~~ 17 and 18 of this act** and only to the extent authorized for expenditure by the Legislature; and

(c) Does not revert to the State General Fund at the end of any fiscal year.

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, he shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, “population” means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 23. NRS 281.481 is hereby amended to read as follows:

281.481 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend ~~(improperly)~~ to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501.

(b) "Unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of his public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

↪ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A member of the Legislature shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of his public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of his official position.

~~Sec. 17.~~ **Sec. 24.** NRS 281.541 is hereby amended to read as follows:

281.541 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or

employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.

~~[(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:~~

~~(1) Submitted, at least 60 days before its anticipated distribution, to the Commission for review; and~~

~~(2) Upon review, approved by the Commission.]~~

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

~~[Sec. 18.]~~ **Sec. 25.** NRS 281.552 is hereby amended to read as follows:

281.552 1. Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must accompany the first statement of financial disclosure that the public officer is required to file with the ~~{Commission}~~ **filing officer** pursuant to NRS 281.559 or ~~{the Secretary of State pursuant to NRS}~~ 281.561.

2. The ~~{Commission and the Secretary of State}~~ **filing officer** shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.

~~[Sec. 19.]~~ **Sec. 26.** NRS 281.559 is hereby amended to read as follows:

281.559 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, he shall file with the ~~{Commission}~~ **filing officer** a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for

that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

4. ~~The Commission~~ **Filing officers other than the Secretary of State** shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:

(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;

(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;

(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and

(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.

5. In addition to the notice provided pursuant to subsection 4, the ~~Commission~~ **filing officer** shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.

6. A statement of financial disclosure shall be deemed to be filed with the ~~Commission~~ **filing officer**:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the ~~Commission~~ **filing officer** if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

7. **The filing officer shall ~~maintain~~ :**

(a) Maintain files of statements of financial disclosure filed pursuant to this section and make the statements available for public inspection ~~and~~ ;
and

(b) Submit a copy of each statement of financial disclosure filed pursuant to this section to the Secretary of State within 10 working days after receiving it.

8. Within a reasonable time after the Secretary of State receives a statement of financial disclosure or a copy of a statement of financial disclosure pursuant to this section, the Secretary of State shall post the statement of financial disclosure on his Internet website.

~~8.~~ **9. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section.**

~~Sec. 20.~~ **Sec. 27.** NRS 281.561 is hereby amended to read as follows:

281.561 1. Each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection 2, each public officer who was elected to the office for which he is serving shall file with the ~~Secretary of State~~ **filing officer** a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office; and

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

2. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

3. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

4. A statement of financial disclosure shall be deemed to be filed with the ~~Secretary of State~~ **filing officer**:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the ~~Secretary of State~~ **filing officer** if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

5. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the ~~Commission~~ **Secretary of State** pursuant to NRS ~~[281.471.]~~ **294A.373.**

6. ~~The filing officer shall maintain:~~

(a) Maintain files of statements of financial disclosure filed pursuant to this section and make the statements available for public inspection ~~and~~;

(b) Submit a copy of each statement of financial disclosure filed pursuant to this section to the Secretary of State within 10 working days after receiving it.

7. Within a reasonable time after the Secretary of State receives a statement of financial disclosure or a copy of a statement of financial disclosure pursuant to this section, the Secretary of State shall post the statement of financial disclosure on his Internet website.

~~7.7~~ **8.** The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section . ~~[, maintain files of such statements and make the statements available for public inspection.]~~

~~Sec. 21.1~~ **Sec. 28.** NRS 281.571 is hereby amended to read as follows:

281.571 1. Statements of financial disclosure, ~~as approved pursuant to NRS 281.541 or~~ in such form as the ~~{Commission otherwise prescribes,}~~ **Secretary of State prescribes pursuant to NRS 294A.373**, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but , if that is the case, a general source such as “professional services” must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The ~~{Commission}~~ **filing officer** shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The ~~{Commission}~~ **filing officer** is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed *by the Secretary of State* pursuant to ~~{subsection 1 of NRS 281.541}~~ **NRS 294A.373**.

3. As used in this section:

(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

(b) "Household" includes:

(1) The spouse of a candidate for public office or public officer;

(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

(3) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

~~{Sec. 22}~~ **Sec. 29.** NRS 281.573 is hereby amended to read as follows:

281.573 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281.559 ~~{}~~ **and** 281.561 ~~{and 281.571}~~ must be retained by the ~~{Commission or Secretary of State}~~ **filing officer** for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

~~{Sec. 23}~~ **Sec. 30.** NRS 281.574 is hereby amended to read as follows:

281.574 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the ~~{Commission and to the Secretary of State}~~ **filing officer**, in a form prescribed by the ~~{Commission}~~ **Secretary of State**, on or before December 1 of each year by:

(a) ~~{Each county clerk for all public officers of the county and other local governments within the county other than cities;~~

(b) ~~Each city clerk for all public officers of the city;~~

(c) ~~The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and~~

~~{(d)}~~ (b) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. ~~{The Secretary of State, each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Commission, and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk}~~ *Each filing officer other than the Secretary of State* shall submit electronically to the Secretary of State, in a form prescribed by the ~~{Commission,}~~ *Secretary of State*, a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that *filing* officer within 10 days after the last day to qualify as a candidate for the applicable office.

~~{Sec. 24.}~~ *Sec. 31.* NRS 281.575 is hereby amended to read as follows:

281.575 ~~{The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk}~~ *Each filing officer* who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate the form prescribed by the ~~{Commission}~~ *Secretary of State pursuant to NRS 294A.373* for the making of a statement of financial disclosure, accompanied by instructions on how to complete the form, where it must be filed and the time by which it must be filed.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 604.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 510.

AN ACT relating to elections; requiring certain persons or groups of persons advocating the passage or defeat of certain initiatives or referenda to provide various information to the Secretary of State concerning campaign contributions, expenditures and expenses; requiring public hearings to be conducted concerning certain initiatives and referenda; requiring circulators of certain petitions to attach an affidavit to each document of the petition; requiring circulators of certain petitions to disclose their status as volunteer or paid circulators; ~~{requiring descriptions of certain initiatives and referenda to be certified for accuracy by the Secretary of State,}~~ authorizing the

Legislative Counsel to provide technical suggestions regarding certain initiatives and referenda; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 294A of NRS governs campaign practices. NRS 294A.150 and 294A.220 require persons or groups of persons advocating the passage or defeat of a ~~constitutional amendment or a statewide measure proposed by an initiative or referendum~~ **question on a ballot** to submit reports to the Secretary of State on campaign contributions, expenditures and expenses. Section 3 of this bill ~~requires such~~ **creates a new section for persons and groups of persons advocating the passage or defeat of a constitutional amendment or a statewide measure proposed by an initiative or referendum and that have received or expended at least \$10,000 for that purpose. The provisions of this new section require such persons or groups** to submit ~~additional~~ **similar** campaign contribution and expense reports to the Secretary of State **on a different schedule and with certain additional information.** Section 4 of this bill requires such persons and groups to appoint a resident agent who lives in Nevada ~~and~~, **regardless of the amount of money they have received or expended.** Section 5 of this bill requires such persons and groups to file an organizational statement with the Secretary of State ~~and~~, **regardless of the amount of money they have received or expended.** Section 6 of this bill requires such persons and groups who pay others to circulate petitions to disclose certain financial information to the Secretary of State. Section 13 of this bill provides that such persons and groups who violate section 3 are subject to civil penalties.

Chapter 295 of NRS governs petitions for statewide and local initiatives and referenda. Section 15 of this bill requires the Director of the Legislative Counsel Bureau to hold public hearings on statewide initiatives and referenda. Section 16 of this bill requires petition circulators to attach an affidavit to each document of a petition attesting to the veracity of each signature. Section 17 of this bill prohibits paying people to sign petitions. Section 18 of this bill requires petition circulators to disclose whether they are paid or volunteer circulators.

~~Existing law requires each initiative and referendum petition to contain a brief description of the initiative or referendum. (NRS 295.009) Section 19 of this bill requires that description to be certified for accuracy by the Secretary of State.~~

Existing law requires the Secretary of State to consult with the Fiscal Analysis Division of the Legislative Counsel Bureau regarding the possible financial effect on the State of any initiative or referendum. (NRS 295.015) Section 20 of this bill requires the Secretary of State also to consult with the Legislative Counsel regarding each initiative or referendum and authorizes the Legislative Counsel to make technical suggestions regarding the petition.

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

Section 1. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~and~~ **and section 3 of this act.**

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 2. Chapter 294A of NRS is hereby amended by adding thereto the sections set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. ***1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy shall, not later than the dates listed in subsection 2, report:***

(a) Each campaign contribution in excess of \$100 received during each period described in subsection 2;

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed \$100;

(c) Each expenditure in excess of \$100 the person or group of persons makes during each period described in subsection 2; and

(d) The total amount of money the person or group of persons has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person or group of persons required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.

4. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in each report.

5. Each report required pursuant to this section must:

(a) Be on the form designed and provided by the Secretary of State pursuant to NRS 294A.373; and

(b) ~~Contain any other information required by the Secretary of State; and~~
 (c) Be signed by the person or a representative of the group of persons under penalty of perjury.

6. A person or group of persons may mail or transmit each report to the Secretary of State by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.

7. A report shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 4. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum shall appoint and keep within this State a resident agent who must be a natural person who resides in this State.

Sec. 5. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, before engaging in any such advocacy in this State, shall file a statement of organization with the Secretary of State as provided in subsection 2.

2. Each statement of organization must include:

- (a) *The name of the person or group of persons;*
- (b) *The purpose for which the person or group of persons is organized;*
- (c) *The names, addresses and telephone numbers of any officers of the person or group of persons;*
- (d) *If the person or group of persons is affiliated with or is retained by any other ~~organizations,~~ person or group for the purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name, address and telephone number of each such ~~organization,~~ other person or group; and*
- (e) *The name, address and telephone number of the resident agent of the person or group of persons . ~~f, and~~*
- ~~(f) Any other information deemed necessary by the Secretary of State.~~

3. A person or group of persons which has filed a statement of organization pursuant to this section shall file an amended statement with the Secretary of State within 30 days of any changes to the information required pursuant to subsection 2.

Sec. 6. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum that provides compensation to persons to circulate petitions shall report to the Secretary of State:

- (a) *The number of persons to whom such compensation is provided;*
- (b) *The least amount of such compensation that is provided and the greatest amount of such compensation that is provided; and*
- (c) *The total amount of compensation provided.*

2. The Secretary of State shall make public any information received pursuant to this section.

Sec. 7. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. ~~Every~~ *Except as otherwise provided in section 3 of this act, every* person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during that period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under

penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for each question for which the person or group advocates passage or defeat ; ~~for each year in which a person or group receives or expends money in excess of \$10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately

following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation shall comply with the requirements of this subsection.~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

6. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the person or group of persons is advocating passage or defeat of a group of questions, ~~{or is receiving or expending money to support a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,}~~ the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 8. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. ~~{Every}~~ **Except as otherwise provided in section 3 of this act, every** person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~{and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or~~

~~expends money in an amount in excess of \$10,000 to support such initiation or circulation]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for a question for which the person or group advocates passage or defeat ; ~~for each year in which a person or group of persons receives or expends money in excess of \$10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation shall comply with the requirements of this subsection.~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions, ~~for a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,~~ the reports must be itemized by question or petition. A person may mail or transmit his report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 9. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210, 294A.220 and 294A.280 **and section 3 of this act** must consist of a list of each expenditure in excess of \$100 that was made during the periods

for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of \$100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

- (a) Office expenses;
- (b) Expenses related to volunteers;
- (c) Expenses related to travel;
- (d) Expenses related to advertising;
- (e) Expenses related to paid staff;
- (f) Expenses related to consultants;
- (g) Expenses related to polling;
- (h) Expenses related to special events;
- (i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and
- (j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160.

Sec. 10. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~and~~ **and section 3 of this act.**

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

Sec. 11. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy;
3. The registration of a committee for political action pursuant to NRS 294A.230 or a committee for the recall of a public officer pursuant to NRS 294A.250; or

4. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360, **or section 3 of this act,**

↪ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 **or section 3 of this act** relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420 must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 12. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, ~~for~~ **and section 3 of this act**, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.

(c) Group of persons advocating the election or defeat of a candidate.

(d) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.

(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

Sec. 13. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 **or section 3 of this act** has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 **or section 3 of this act** is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 14. Chapter 295 of NRS is hereby amended by adding thereto the sections set forth as sections 15 to 18, inclusive, of this act.

Sec. 15. **1. The Director of the Legislative Counsel Bureau shall hold a public hearing on each petition for initiative or referendum that has been filed with the Secretary of State.**

2. Each public hearing required pursuant to this section must be held not later than 10 days nor more than 20 days before the general election at which the initiative or referendum is submitted for popular vote.

3. The Legislative Counsel Bureau shall provide such staff as is necessary to provide appropriate research and analysis of the initiative or referendum at each public hearing required pursuant to this section.

4. Each public hearing required pursuant to this section must be an opportunity for public discussion of:

(a) Technical matters relating to the petition, including, without limitation, compliance with the requirements of NRS 295.009; and

(b) The substantive content of the initiative or referendum.

Sec. 16. **A petition for initiative or referendum may consist of more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:**

1. That he personally circulated the document;

2. The number of signatures thereon;

3. That all the signatures were affixed in his presence;

4. That he believes the signatures to be the genuine signatures of the persons whose names they purport to be; and

5. That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Sec. 17. **A person shall not give compensation of any kind to any person in exchange for signing a petition for initiative or referendum.**

Sec. 18. **Each person circulating a petition for initiative or referendum who:**

1. Is not receiving or will not receive any compensation for circulating the petition shall disclose to signers of the petition his status as a volunteer;

2. Is receiving or will receive any compensation for circulating the petition shall disclose to signers of the petition his status as a paid circulator.

Sec. 19. ~~[NRS 295.009 is hereby amended to read as follows:~~

~~295.009 1. Each petition for initiative or referendum must:~~

~~(a) Embrace but one subject and matters necessarily connected therewith and pertaining thereto; and~~

~~(b) Set forth, in not more than 200 words, a description of the effect of the initiative or referendum if the initiative or referendum is approved by the voters. The description must appear on each signature page of the petition [.] and must be certified for accuracy by the Secretary of State.~~

~~2. For the purposes of paragraph (a) of subsection 1, a petition for initiative or referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative or referendum are functionally related and germane to each other in a way that provides sufficient notice of the general subject of, and of the interests likely to be affected by, the proposed initiative or referendum.]~~
(Deleted by amendment.)

Sec. 20. NRS 295.015 is hereby amended to read as follows:

295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, must be placed on file with the Secretary of State.

2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1 ~~[, the]~~:

(a) The Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.

3. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009, ~~[and]~~ any fiscal note prepared pursuant to subsection 2 ~~[,]~~ **and any suggestions made by the Legislative Counsel pursuant to subsection 2**, on his Internet website.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 606.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 511.

AN ACT relating to elections; requiring certain persons or groups of persons advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum to register with the Secretary of State; prohibiting the compensation of persons who gather

signatures on certain petitions on the basis of the number of signatures gathered; requiring persons who gather signatures on certain petitions to be residents of this State; requiring the Secretary of State to make public certain information; ~~creating and providing the composition and duties of the Ballot Review Board;~~ amending provisions relating to legal challenges to certain petitions; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 294A of NRS governs campaign practices. Section 2 of this bill requires certain persons or groups of persons advocating the passage or defeat of a statewide initiative or referendum to register with the Secretary of State. Section 3 of this bill prohibits the compensation of persons who gather signatures on statewide initiative and referendum petitions on a per-signature basis. Section 4 of this bill requires each person gathering signatures on a petition to be a resident of Nevada. Section 5 of this bill provides that a person or group of persons required to register with the Secretary of State pursuant to section 3 who fail to so register or who compensate a signature gatherer in violation of section 3 is subject to a civil penalty.

Chapter 295 of NRS governs petitions for statewide and local initiatives and referenda. Section 7 of this bill requires the Secretary of State to make public certain information regarding petition signatures. Section 8 of this bill ~~creates the Ballot Review Board.~~ **provides that the use of an intentional misrepresentation or other fraudulent means to obtain signatures on petitions or forging signatures on petitions is prohibited and provides that the consequence of such behavior is the invalidation of signatures collected by the person found to have committed such behavior or the invalidation of all signatures collected on behalf of the group found to have committed such behavior.**

~~Existing law requires petitions for initiatives and referenda to be filed with the Secretary of State before being presented to registered voters for signatures. (NRS 295.015) Section 9 of this bill requires the Secretary of State to then consult with the Ballot Review Board regarding the conformity of the petition with certain technical requirements. Section 9 also authorizes the Ballot Review Board to offer suggestions regarding the petition. Existing law provides for challenges to petitions on initiatives and referenda to be filed with certain district courts. (NRS 295.061) Section 10 of this bill requires that any such complaint must first be heard by the Ballot Review Board.~~

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, 3 and 4 of this act.

Sec. 2. **1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional**

amendment or statewide measure proposed by initiative or referendum shall register, before engaging in any such advocacy in this State, with the Secretary of State on forms supplied by the Secretary of State.

2. The form must require:

(a) The name of the person or group;

(b) The purpose for which the person or group is organized;

(c) The names, addresses and telephone numbers of any officers ~~of~~ ~~employees and volunteers~~ of the person or group; and

(d) If the person or group is affiliated with or is retained by any other organizations, person or group for the purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name, address and telephone number of each such ~~organization;~~ and

~~(e) Any other information deemed necessary by the Secretary of State.~~ other person or group.

Sec. 3. A person or group of persons organized formally or informally who compensates in any way a person who gathers signatures on a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum shall not compensate such a person on the basis of the number of signatures gathered.

Sec. 4. Each person who gathers signatures on a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum must be a resident of this State.

Sec. 5. 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 2 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 2 or 3 of this act is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 6. Chapter 295 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. *After a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum is ~~filed with the Secretary of State, the Secretary of State~~ submitted for signature verification to the county clerk, the county clerk shall make ~~public all signatures and~~ true and correct copies of all the documents of the petition and signatures thereon and shall make such copies and signatures available to the public for a period of not less than 14 days.*

Sec. 8. *1. ~~The Ballot Review Board is hereby created.~~*
~~2. Except as otherwise provided in subsection 3, the Ballot Review Board consists of the following ex officio members:~~

~~(a) The Secretary of State;~~

~~(b) Three county clerks, to be appointed by the Governor; and~~

~~(c) The Attorney General.~~

~~3. If a member of the Ballot Review Board is a candidate for any elective office in an election, the Governor shall appoint an alternate member to serve in the place of that member until the election is conducted.~~

~~4. The members of the Ballot Review Board are not entitled to any additional compensation for their service in that capacity.~~ A person or group of persons who is required to register pursuant to section 2 of this act or a person who circulates a petition to collect signatures in support thereof on behalf of such a person or group of persons shall not:

(a) Intentionally misrepresent the contents of a petition or the effect that such a petition would have if enacted into law or otherwise engage in any fraudulent behavior to induce another person to sign a petition; or

(b) Forge signatures on such a petition.

2. If the Secretary of State receives information indicating that a person or group has violated the provisions of subsection 1, the Secretary of State may, after giving notice to that person and the person or group who is required to register with the Secretary of State pursuant to section 2 of this act, cause the appropriate proceedings to be instituted in the First Judicial District Court.

3. If the First Judicial District Court determines that the person or group violated the provisions of subsection 1, the First Judicial District Court shall disqualify all the signatures that were collected by that person or all the signatures collected on behalf of the group, unless the person or group who is required to register with the Secretary of State pursuant to section 2 of this act proves by clear and convincing evidence that each person who signed the documents of the petition circulated by that person or group intended to sign and support the petition despite the misrepresentations or other fraudulent behavior.

Sec. 9. ~~[NRS 295.015 is hereby amended to read as follows:~~

~~295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, must be placed on file with the Secretary of State.~~

~~2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1, the Secretary of State shall consult with [the]~~

~~(a) The Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.~~

~~(b) The Ballot Review Board for an analysis of the conformity of the petition with the technical requirements of Article 19 of the Constitution of the State of Nevada and of this chapter. The Ballot Review Board may offer suggestions on such conformity to the person or group of persons circulating the petition.~~

~~3. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009 and any fiscal note prepared pursuant to subsection 2, on his Internet website. (Deleted by amendment.)~~

Sec. 10. ~~[NRS 295.061 is hereby amended to read as follows:~~

~~295.061 1. The description of the effect of an initiative or referendum required pursuant to NRS 295.009 may be challenged by filing a complaint [in the First Judicial District Court] with the Ballot Review Board not later~~

~~than 30 days, Saturdays, Sundays and holidays excluded, after a copy of the petition is initially placed on file with the Secretary of State pursuant to NRS 295.015. All affidavits and documents in support of the challenge must be filed with the complaint. The [court] *Ballot Review Board* shall set the matter for hearing not later than [30] 15 days after the complaint is filed. [and shall give priority to such a complaint over all criminal proceedings.]~~

~~2.—The decision of the *Ballot Review Board* pursuant to subsection 1 is a final decision for purposes of judicial review. The decision may be appealed by filing a complaint in the First Judicial District Court not later than 7 days after the date of the decision by the *Ballot Review Board* pursuant to subsection 1. The court shall set the matter for hearing not later than 15 days after the decision is appealed and shall give priority to such a complaint over all criminal proceedings.~~

~~3.—The legal sufficiency of a petition for initiative or referendum may be challenged by filing a complaint [in district court] with the *Ballot Review Board* not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State. All affidavits and documents in support of the challenge must be filed with the complaint. The [court] *Ballot Review Board* shall set the matter for hearing not later than [30] 15 days after the complaint is filed. [and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.]~~

~~4.—The decision of the *Ballot Review Board* pursuant to subsection 3 is a final decision for purposes of judicial review. The decision may be appealed by filing a complaint in district court not later than 7 days after the decision by the *Ballot Review Board* pursuant to subsection 3. The court shall set the matter for hearing not later than 15 days after the decision is appealed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.] (Deleted by amendment.)~~

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assemblyman Ocegüera moved that the Assembly recess until 4:30 p.m.

Motion carried.

Assembly in recess at 2:12 p.m.

ASSEMBLY IN SESSION

At 5:05 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 25, 145, 297 just returned from the printer, be placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 25:

YEAS—42.

NAYS—None.

Assembly Bill No. 25 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 39.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 39:

YEAS—42.

NAYS—None.

Assembly Bill No. 39 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 70.

Bill read third time.

Remarks by Assemblyman Segerblom.

Roll call on Assembly Bill No. 70:

YEAS—35.

NAYS—Beers, Christensen, Cobb, Goedhart, Mabey, Marvel, Settlemeyer—7.

Assembly Bill No. 70 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 97.

Bill read third time.

Remarks by Assemblywoman Leslie.

Conflict of interest declared by Assemblywoman Gansert.

Roll call on Assembly Bill No. 97:

YEAS—34.

NAYS—Christensen, Goedhart, Hardy, Mabey, Settlemeyer, Stewart, Weber—7.

NOT VOTING—Gansert.

Assembly Bill No. 97 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 101.

Bill read third time.

Remarks by Assemblywoman Gansert.

Roll call on Assembly Bill No. 101:

YEAS—42.

NAYS—None.

Assembly Bill No. 101 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 115 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 146 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 150 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 161 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 232 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 142 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 145.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 145:

YEAS—42.

NAYS—None.

Assembly Bill No. 145 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 147.

Bill read third time.

Remarks by Assemblymen Leslie and Settelmeyer.

Roll call on Assembly Bill No. 147:

YEAS—42.

NAYS—None.

Assembly Bill No. 147 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 209.

Bill read third time.

Roll call on Assembly Bill No. 209:

YEAS—42.

NAYS—None.

Assembly Bill No. 209 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 238.

Bill read third time.

Remarks by Assemblymen Koivisto, Settelmeyer, Conklin, Allen, and

Oceguera.

Potential conflict of interest declared by Assemblyman Settelmeyer.

Roll call on Assembly Bill No. 238:

YEAS—26.

NAYS—Allen, Beers, Buckley, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settelmeyer, Stewart, Weber—16.

Assembly Bill No. 238 having failed to received a two-thirds majority, Madam Speaker declared it lost.

Assembly Bill No. 263.

Bill read third time.

Remarks by Assemblywoman Gerhardt.

Roll call on Assembly Bill No. 263:

YEAS—42.

NAYS—None.

Assembly Bill No. 263 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 278.

Bill read third time.

Remarks by Assemblyman Kihuen.

Roll call on Assembly Bill No. 278:

YEAS—40.

NAYS—Arberry, Buckley—2.

Assembly Bill No. 278 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 283.

Bill read third time.

Remarks by Assemblyman Settlemeyer.

Roll call on Assembly Bill No. 283:

YEAS—42.

NAYS—None.

Assembly Bill No. 283 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 360 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 367 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 393 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 416 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 440 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 443 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 285.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 285:

YEAS—42.

NAYS—None.

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

Bill ordered transmitted to the Senate.

Assembly Bill No. 297.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 297:

YEAS—41.

NAYS—Koivisto.

Assembly Bill No. 297 having received a two-thirds majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 311.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 311:

YEAS—42.

NAYS—None.

Assembly Bill No. 311 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 335.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 335:

YEAS—42.

NAYS—None.

Assembly Bill No. 335 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 365.

Bill read third time.

Remarks by Assemblywoman Womack.

Potential conflict of interest declared by Assemblyman Parks.

Roll call on Assembly Bill No. 365:

YEAS—42.

NAYS—None.

Assembly Bill No. 365 having received a two-thirds majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 383.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 383:

YEAS—42.

NAYS—None.

Assembly Bill No. 383 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 396.

Bill read third time.

Remarks by Assemblywoman Allen.

Roll call on Assembly Bill No. 396:

YEAS—42.

NAYS—None.

Assembly Bill No. 396 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 6:00 p.m.

ASSEMBLY IN SESSION

At 6:01 p.m.

Mr. Speaker Pro Tempore presiding.

Quorum present.

Assembly Bill No. 433.

Bill read third time.

Remarks by Assemblywoman Buckley.

Roll call on Assembly Bill No. 433:

YEAS—41.

NAYS—None.

NOT VOTING—Marvel.

Assembly Bill No. 433 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 446.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 446:

YEAS—42.

NAYS—None.

Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 461.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Assembly Bill No. 461:

YEAS—42.

NAYS—None.

Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 462.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 462:

YEAS—42.

NAYS—None.

Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 478.

Bill read third time.

Remarks by Assemblymen Buckley, Grady, Carpenter, and Christensen.

Roll call on Assembly Bill No. 478:

YEAS—42.

NAYS—None.

Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 6:18 p.m.

ASSEMBLY IN SESSION

At 6:19 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 490.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 490:

YEAS—42.

NAYS—None.

Assembly Bill No. 490 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 496.

Bill read third time.

Remarks by Assemblyman Conklin.

Potential conflict of interest declared by Assemblyman Hardy.

Roll call on Assembly Bill No. 496:

YEAS—35.

NAYS—Beers, Carpenter, Christensen, Cobb, Goedhart, Settlemeyer, Stewart—7.

Assembly Bill No. 496 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 506.

Bill read third time.

Remarks by Assemblyman Segerblom.

Roll call on Assembly Bill No. 506:

YEAS—27.

NAYS—Allen, Beers, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settlemeyer, Stewart, Weber—15.

Assembly Bill No. 506 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 507.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 507:

YEAS—42.

NAYS—None.

Assembly Bill No. 507 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 513.

Bill read third time.

Roll call on Assembly Bill No. 513:

YEAS—42.

NAYS—None.

Assembly Bill No. 513 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 255 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 514 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 604 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 606 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 525 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 527.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 527:

YEAS—42.

NAYS—None.

Assembly Bill No. 527 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 569.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 569:

YEAS—42.

NAYS—None.

Assembly Bill No. 569 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 570.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 570:

YEAS—42.

NAYS—None.

Assembly Bill No. 570 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 576.

Bill read third time.

Remarks by Assemblywoman Gerhardt.

Roll call on Assembly Bill No. 576:

YEAS—42.

NAYS—None.

Assembly Bill No. 576 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 577.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Assembly Bill No. 577:

YEAS—34.

NAYS—Beers, Christensen, Cobb, Goedhart, Hardy, Settlemeyer, Stewart, Weber—8.

Assembly Bill No. 577 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 600.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 600:

YEAS—42.

NAYS—None.

Assembly Bill No. 600 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 605.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 605:

YEAS—42.

NAYS—None.

Assembly Bill No. 605 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 375.

Bill read third time.

Remarks by Assemblyman Ocegüera.

Roll call on Assembly Bill No. 375:

YEAS—41.

NAYS—None.

NOT VOTING—Arberry.

Assembly Bill No. 375 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 431.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 431:

YEAS—42.

NAYS—None.

Assembly Bill No. 431 having received a two-thirds majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 12.

Bill read third time.

Remarks by Assemblymen Parks and Carpenter.

Roll call on Assembly Bill No. 12:

YEAS—42.

NAYS—None.

Assembly Bill No. 12 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 424.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 424:

YEAS—42.

NAYS—None.

Assembly Bill No. 424 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 249.

Bill read third time.

The following amendment was proposed by Assemblywoman Allen:

Amendment No. 608.

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 ~~44~~ 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 a shorter 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~~ ~~new section to read as follows:~~ **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.

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. ~~It~~ ***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 ~~4~~ 1.3 of this act;*

(i) Has violated any regulation of the Board;

~~(j)~~ (j) Has violated any provision of this chapter;

~~(k)~~ (k) Is incompetent;

~~(l)~~ (l) Is guilty of unethical or unprofessional conduct as determined by the Board;

~~(m)~~ (m) Is guilty of repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner; or

~~(n)~~ (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.

Assemblywoman Allen moved the adoption of the amendment.

Remarks by Assemblyman Allen.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Madam Speaker gave notice that on the next legislative day she would move to reconsider the vote whereby Assembly Bill No. 238 was this day lost.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Allen, the privilege of the floor of the Assembly Chamber for this day was extended to Carolyn Krack.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Skip Moeller, Matthew Carlson, and Amy Gookin.

On request of Assemblyman Mabey, the privilege of the floor of the Assembly Chamber for this day was extended to Jeff Davis.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Fred Sicks and Sandy Sicks.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Bordewich-Bray Elementary School: Aiden Kendrick, Catie Taylor-Dillon, Christian Iriarte, Christopher Mattoon, Connor Johnson, Denver Scott, Donald Elkins, Emily Clark, Jada Robertson, Kaleb Gara, Kayla Vieyra, Kody Hipple, Leslie Segura, Luis Montes, Melany Sanchez, Michelle Nunez, Morgan Pruzzp, Nolan Sheldonh, Samantha Bentley, Sawyer Barnett, Skylar Thackston, Sophia Willams, Steven Flanagan, Taylor Dixon, Vencint Maes, Erik Aalgaard, Ashley Aalgaard and Shayla Aalgaard; teachers Jessica Granat and Rachel Barilla; chaperones Sherri Clark and Wendi Thackston.

On request of Assemblyman Settlemeyer, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Minden Elementary School: Patrick Adams, Sarah Amador, Jenni Castillo Madrid, Hannah Colbert, Kathyn Curnrine, Joseph Cruz, Amy Cullen, Vincent Garcia, Morgan Garside, Alexander Ghan, Maria Gudino-Cueva, Jackie Johnson, Luke Leonard, Connor Miller, Kendra Miller, Thomas Millsap, Thomas Palmer, Jarret Preston, Marcus Reyes, Lepollon Rose, Mikayla Slack, Jacob Stella, Tanner Thorson, Rebecca Valentine, Camry Varble, Brenhan Wylie, Julianna Allre, Gerardo Armenta Silva, Kyle Barnes, Lia Bordonaba, Samantha Brown, Roberto Castellanos, Andrew Cheechov, Casey Connolly, Alana Frederick, Luis Garcia Ramirez, Brittney Gilroy, Kristan Henie, Jacob Holley, Emily Holt, Brooke Hranek, Sierra Hughes, Cassidy Norton, Brooke Park, Christopher Presley, Luke Romero, Benjamin Sabin, Coby Souza, Katharine Teigen , Reid Winans, Alexander Wright, Daniel Gourlay, Brennan Callahan, Jaden Wass, Madeline Strauss and Megan Slobogin.

Assemblyman Ocegüera moved that the Assembly adjourn until Tuesday, April 24, 2007, at 11 a.m.

Motion carried.

Assembly adjourned at 6:54 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly