

**THE SEVENTY-SECOND DAY**

---

CARSON CITY (Tuesday), April 17, 2007

Senate called to order at 11:27 a.m.

President pro Tempore Amodei presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Lord, we grieve today over the tragic loss in Virginia. Please be with all of those families.

Father in heaven, the dictionary defines "senate" as an assembly or council of citizens having the highest deliberative functions in a government. "Highest deliberative functions"—Whew! That is quite a responsibility. Please bless this body. I pray in the Name of the one who is over all functions.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

**REPORTS OF COMMITTEES**

*Mr. President pro Tempore:*

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 159, 279, 410, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

*Mr. President pro Tempore:*

Your Committee on Finance, to which was referred Senate Bill No. 457, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

*Mr. President pro Tempore:*

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 84, 137, 145, 200, 369, 447, 497, 517, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

*Mr. President pro Tempore:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 153, 192, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK E. AMODEI, *Chair*

*Mr. President pro Tempore:*

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 272, 274, 306, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEAN A. RHOADS, *Chair*

*Mr. President pro Tempore:*

Your Committee on Taxation, to which were referred Senate Bills Nos. 141, 146, 211, 528, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MIKE MCGINNESS, *Chair*

*Mr. President pro Tempore:*

Your Committee on Transportation and Homeland Security, to which were referred Senate Bills Nos. 61, 106, 263, 315, 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 16, 2007

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 37, 38, 127, 289, 299, 329, 350, 358, 359, 366, 373, 380, 381, 404, 468, 483, 497, 515, 552, 554, 560, 575, 585, 589, 601; Assembly Joint Resolutions Nos. 9, 10; Assembly Joint Resolution No. 1 of the 22nd Special Session.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 4, 8, 52, 54, 58, 71, 72, 76, 106, 136, 176, 227, 247, 282, 307, 334, 353, 512, 593; Assembly Joint Resolution No. 1.

LUCINDA BENJAMIN

*Assistant Chief Clerk of the Assembly*

#### WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 16, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 557.

GARY GHIGGERI

*Fiscal Analysis Division*

#### MOTIONS, RESOLUTIONS AND NOTICES

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Senate Resolution No. 6—Inducting Rene Watt Lemaire into the Senate Hall of Fame.

WHEREAS, The Senate of the Legislature of the State of Nevada has established a Senate Hall of Fame whose members are selected by leadership from those past Senators who have served with distinction and have made exemplary contributions to this State; and

WHEREAS, Rene Watt Lemaire, a native Nevadan, was born in Battle Mountain, Lander County, to a pioneer family with a history of public service, and Senator Lemaire's father, Henry, served as Lander County Commissioner, his grandfather, George Watt, served in the Assembly from 1875 to 1876 and from 1879 to 1880, and his cousin, Louis A. Lemaire, served in the Senate from 1915 to 1918; and

WHEREAS, During World War II, Rene Lemaire served as Squadron Commander of the Nevada Civil Air Patrol and Chair of the Lander County United States Savings Bonds Committee; and

WHEREAS, Rene Lemaire's early occupations included working for the Standard Oil Company in Nevada and California, assisting his father in operating Lemaire's Service Garage and Auto Court, finding his life's vocation in banking, being elected President of the Battle Mountain State Bank, serving as Director of the Nevada Bank of Commerce and being honored as Director Emeritus of Nevada National Bank; and

WHEREAS, Rene Watt Lemaire represented the citizens of Lander County in the Nevada Senate for a total of 23 years from 1943 to 1958 and from 1960 to 1966; and

WHEREAS, Senator Lemaire served in the Nevada Senate for a total of 18 legislative sessions, 12 regular sessions and 6 special sessions, was a member of the Legislative Commission, the Special Committee on Taxation and Fiscal Affairs and the Joint Committee on Financial Affairs, and, in 1969, was named to the Council of Industrial Development by Governor Paul Laxalt; and

WHEREAS, Rene Watt Lemaire served as President Pro Tempore in the 1947 and 1953 Regular Sessions and the 1954 Special Session, Senate Majority Floor Leader in the 1955 and 1957 Regular Sessions and the 1956 and 1958 Special Sessions, and chaired the Committees on Aviation, Banks and Banking, Corporations, Fish and Game, Judiciary, Labor, Public Morals and State Institutions; and

WHEREAS, In 1967, Senator Lemaire stated that his most significant legislative contributions included the creation of the State Purchasing Department, the Silicosis Act, the advancement and expansion of aviation and legislation pertaining to education, and Senator Lemaire also sponsored legislation that restructured the administration and organization of the Legislative Counsel Bureau and the Legislative Commission; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That Senator Rene Watt Lemaire, who dedicated 23 years to public service as a member and leader of the Nevada Legislature, is hereby inducted into the Senate Hall of Fame of the Legislature of the State of Nevada.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

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

Today, we recognize two former Senators for induction into the Senate Hall of Fame. Let me speak first about Rene Watt Lemaire of Lander County. Senator Rene Watt Lemaire, born in Battle Mountain, is the third Senator who represented Lander County to be inducted into the Senate Hall of Fame. The other two being George W. Cassidy (1873-1880), inducted in 2001 and Noble H. Getchell (1923-1942), inducted in 1991.

We are pleased and honored to have several members of the Lemaire family with us today. Unfortunately, during the time Senator Lemaire served, the Hall of Fame did not exist. If it had, he could have been properly recognized during his lifetime. The Lemaire family name and record of public service dates back to the 1870s when Senator Lemaire's grandfather, George Watt, first served in the Assembly. His cousin Louis A. Lemaire was a Senator from 1915 to 1918.

As a young man, Rene Watt Lemaire assisted in running the family businesses — the Lemaire Service Garage and Auto Court, and a Ford dealership. Lemaire entered his profession of banking where he became President of the Battle Mountain State Bank and Director Emeritus of Nevada National Bank.

During World War II, Lemaire was a squadron commander of the Nevada Civil Air Patrol. He carried his interest in aviation with him into the Legislature where he was a fervent supporter of the advancement and expansion of aviation throughout the State.

Rene Watt Lemaire was elected to the Senate in 1942 and served continuously until 1958. In 1960, he was appointed to the Senate to fill the seat left vacant by the death of Senator Lauritzen. He served in the Senate until 1966, representing his constituents for more than 20 years.

Senator Lemaire was elected President pro Tempore for the 1947 and 1953 regular Sessions and the 1954 Special Session. He served as Senate Majority Floor Leader in the 1955 and 1957 regular Sessions and the Special Sessions of 1956 and 1958. He chaired and served on many committees, and he was the Chair of the first Aviation Committee ever created in the Senate.

In 1967, Senator Lemaire dictated his oral history for the University of Nevada Oral History Program. His recollections of life in Lander County and serving in the Nevada Senate make for interesting reading. I am sure that his family remembers his musical talent as well.

In his oral history, Senator Lemaire commented that his most significant legislative contributions were the creation of the State Purchasing Department, the Silicosis Act, the advancement and expansion of aviation, and legislation pertaining to education.

Please join with me, today, in support of this resolution inducting Senator Rene Watt Lemaire, a member of a pioneer Nevada family and exceptional representative of Lander County in the Legislature for 23 years, into the Senate Hall of Fame.

Resolution adopted.

By Senators Raggio, Titus, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Senate Resolution No. 7—Inducting John M. "Jack" Vergiels into the Senate Hall of Fame.

WHEREAS, The Senate of the Legislature of the State of Nevada has established a Senate Hall of Fame whose members are selected by leadership from those past Senators who have served with distinction and who have made exemplary contributions to the State of Nevada; and

WHEREAS, John M. "Jack" Vergiels, attended Ohio public schools and, in 1982, was inducted into the Waite High School Athletic Hall of Fame for his participation in baseball, basketball and football; and

WHEREAS, After earning his bachelor's, master's and doctorate degrees in education from the University of Toledo, Dr. Vergiels pursued his vocation as a Professor of Education at the University of Nevada, Las Vegas, and, in 1998, in recognition of his successful career as an educator, Dr. Vergiels was bestowed with the title Professor of Education Emeritus by the University and Community College System of Nevada; and

WHEREAS, Senator Vergiels served for a total of 20 years in the Nevada Legislature from 1972 through 1992, serving in the Nevada Assembly for 12 years and in the Nevada Senate for 8 years, during which Senator Vergiels served as a member of the Assembly Committees on Elections, Health and Welfare, Legislative Functions, and Ways and Means, and the Senate Committees on Commerce and Labor, Finance, Natural Resources and Transportation; and

WHEREAS, Senator Vergiels was selected as Assembly Majority Whip in 1973, Assistant Majority Leader in 1979, Majority Floor Leader in 1981 and Assembly Speaker for the 1983 Regular Session and the 1984 Special Session, and during his distinguished service in the Legislature, he served as a member of the Legislative Commission and the Interim Finance Committee and as a Commissioner to and Nevada Chair of the Western Interstate Commission for Higher Education; and

WHEREAS, Among his many accomplishments in the Legislature, Senator Vergiels' priorities included adequately funding the state budget and working to improve the schools in the State, and he cosponsored legislation resulting in the creation of a statewide code of ethical standards, known as the Nevada Ethics in Government Law, and sponsored appropriations for the completion of veterans' cemeteries in both northern and southern Nevada; and

WHEREAS, Jack Vergiels, elected as Speaker of the Assembly in 1983 and Senate Majority Leader in 1991, is the only Legislator in Nevada history to have served in the top leadership position in both Houses of the Nevada Legislature; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That Senator John M. "Jack" Vergiels, an influential, dedicated legislative leader who served the residents of Nevada for 20 years by bringing forth progressive legislation, in addition to his successful career as an educator, is hereby inducted into the Senate Hall of Fame of the Legislature of the State of Nevada.

Senator Titus moved the adoption of the resolution.

Remarks by Senators Titus, Raggio, Coffin and Townsend.

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

SENATOR TITUS:

I am delighted and honored to stand in support of this resolution recognizing the accomplishments of Senator John Vergiels and inducting him into the Nevada Senate Hall of Fame.

The resolution does a commendable job of laying out the many initiatives Jack championed in the Legislature, especially in the area of education. I also think it bears repeating that Jack is the only person in Nevada history to serve as leader of both the Senate and Assembly.

I would like to share a few things that did not make it into the resolution. Jack was a colleague and friend of Tom's and mine at UNLV long before I thought of running for office. The relationship strengthened over the years after he recruited me to run for the District 7 Senate seat vacated by Jim Bilbray. After I agreed to run, however, he recruited another colleague, Tom Kirkpatrick, to run against me. Now, that is tough love! But, love it was.

Jack became my political mentor and helped me become Minority Leader when he left the Senate. In fact, he taught me everything I know, just not everything he knows—that is why I still call him for advice.

Many people have been taught and mentored by Jack over the years. He educated thousands of students during his years at UNLV. He inspired many young political enthusiasts and Democratic activists. He shared his wisdom, wiles and experience with many Legislators, some of whom are in the room today. No one knows how to "play the game" better than Jack; he is the consummate coach! And it always showed.

Let me share one small story with you that reflects his care and concern for young people. While serving in the Legislature, Senator Vergiels addressed a group of students one day, who were visiting the Senate Chambers, during the discussion of a resolution dealing with the Vietnam War. He told them: "I would like to issue a challenge to you young people when you take over the State of Nevada. When you become Senators and Assemblymen, I hope you will be able to keep us out of future wars through the use of diplomacy and through world leadership that will be effective for world peace."

That is the kind of man Jack is, and that is why he deserves this recognition. Thank you, Jack, for all you have done for so many of us.

SENATOR RAGGIO:

On this day, we recognize Senator Jack Vergiels with his induction into the Senate Hall of Fame. We are pleased and honored to have Jack and his family with us today.

Several of the current members of this body, including myself, had the privilege of serving in the Senate at the same time as Jack Vergiels. Jack Vergiels is a native of Michigan. He moved to Nevada after completing his doctorate degree in education at the University of Toledo to follow his chosen career as a professor of Education.

Dr. Vergiels became a professor at the University of Nevada, Las Vegas. At UNLV, Professor Vergiels chaired the Faculty Senate. His tenure at UNLV included serving as Chair of the Department of Curriculum and Instruction and chair of the Department of Secondary, Postsecondary and Vocational Education. In recognition of his years of service with the University System, Jack Vergiels was bestowed with the title Professor of Education Emeritus by the University and Community College System of Nevada in 1998.

Jack Vergiels was first elected to the Nevada Assembly in 1972, serving in leadership roles in that Chamber as Majority Whip (1973), Assistant Majority Leader (1979), Majority Floor Leader (1981) and Speaker of the Assembly for the 1983 regular Session and 1984 Special Session.

In 1984, Jack Vergiels moved across the building to the Senate and served in this House until 1992. Senator Vergiels served as Chair of the Committee on Commerce and Labor and as a member of the Committees on Finance, Natural Resources and Transportation.

Senator Vergiels was chosen for the post of Senate Majority Leader in 1991, thus making him the only Legislator in Nevada history to have served in the top leadership positions in both Houses of the Nevada Legislature.

Senator Vergiels has a record of achievement of 20 years of legislative service—12 years in the Assembly and 8 years in the Senate.

In 1991, Senator Vergiels remarked on the induction of two of the four inductees into that Session's Hall of Fame. Commenting on Senator Noble H. Getchell, Senator Vergiels said, "Nobel H. Getchell should be inducted into the Senate Hall of Fame if, for no other reason, he was Majority Floor Leader. That position would qualify most anyone."

As we look over the list of accomplishments for those persons being inducted into the Senate Hall of Fame, it makes us stop and appreciate the traditions that bring us to this day.

Commenting on the resolution honoring Senator B. Mahlon Brown, Senator Vergiels said that Senator Brown had taught him something that he found very valuable—to "always respect a Senator's opinion and to usually vote his way."

With the addition of Senator Vergiels to the Senate Hall of Fame, he joins the esteemed ranks of many other Senator's that have made significant contributions to our State.

Senator Vergiels served this State well, through many years of challenge and change, and it is with honor and recognition of his dedication and leadership that I ask you to join with me in recognizing Senator Jack Vergiels as an esteemed member of the Nevada Senate Hall of Fame.

#### SENATOR COFFIN:

Thank you, Mr. President Pro Tempore. I have known Jack Vergiels for nearly 40 years. Jack and I were friends through Democratic Party circles in the late 1960s. Jack was one of the people who encouraged a lot of us to think about entering politics. In 1971, he and I had the same exact thinking. Since we were neighbors in Assembly District No. 10, he and I both decided to run for the seat. However, I recognized that Jack was more grounded in politics than I was. I moved out of the district, and in 1972, he won the election and I lost by 22 votes in Assembly District No. 13. I am glad I lost because I never would have come here because at the time I had not achieved the level of maturity needed. Since then, Jack and I have always remained friends.

In 1982, when I felt it was time to try to run again, I was elected. Jack gave me a tremendous amount of responsibility as a freshman in the Assembly. That is a madcap House. Those of us who have served there know there are miles and miles of differences between the legislative demeanor in the Assembly and the Senate. Over there, it is spitballs, bean shooters and just about anything you can get away with to agitate your companions, to distract them and to some way or another agitate the opposing party. It does not matter whether you are in the majority or the minority. In the Senate, it is a good deal different. Jack did some things either "for" me or "to" me as a freshman. He appointed me Chair of the Transportation Committee where the issues were no easier then than they are today. He also put me on Ways and Means, thereby guaranteeing that I would stay out of trouble. He was a wonderful instructor. Even though he deserted us to run for the Senate the following election, he never failed to spend a great deal of time with the freshmen, and there were about 15 of us that year. We learned a lot from him. I did not realize at the time what a master of the legislative process Jack Vergiels had become in ten years. He accumulated even more wisdom over the years to the point where he was the ex-officio closer of the session. He knew exactly how long it would take to end Session based upon how many bills were out and how many bills had not been heard. This was the time of unlimited sessions where things could go on forever if there was not a mechanic like Senator Vergiels involved in the process. He would literally grab people by the arm and take them to conference committees. He would find people and make them sign. That is why he rose to leadership in our House too. In his retirement years, many of us will testify that Senator Vergiels has been called in a number of times to save our sessions. If we were stalled on some issues, Senator Townsend, in particular, could rely upon Senator Vergiels to get the job done so we could go home.

Jack took risks. When times were tough as they were in 1991, when he was Majority Leader, he took a risk because we could see a recession was coming. Jack said to hold our nerve as we have terrible expenses coming; not just possible revenue shortfalls, but we had responsibilities to the kids. Above all, Jack's first concern was for the kids. He knew that we had to convince a reluctant Governor and other members of this Legislature who were reluctant to support a budget that could cause overspending. He stuck to his guns because he felt we needed to do it. We could not shrink from our duty. We needed to appropriate what we thought was needed not what we thought we might have the money for. He paid the price. We all did. However, I am proud we did. The budgets were cut. It was not a happy time following these decisions. Democrats lost the

majority, and we have yet to regain it. There is always hope. This is an object lesson. It is still true today. There are rumors of declining revenues; yet, we know the needs are increasing.

Jack Vergiels lead us in those tough days. I miss his leadership, his companionship. I miss having a beer with him. Jack, you are truly a good representative for the Democrats to go into the Hall of Fame. We will always look fondly on that photo of you. All of these wonderful kids you brought into the world will continue to be proud of you. Thank you for all you have done for all of us. You were a risk taker, leader, mechanic and true politician, a perfect example for all of us. Thank you.

SENATOR TOWNSEND:

Thank you, Mr. President pro Tempore. It is hard to follow three long-serving and articulate individuals, but my relationship with Jack goes back a long way, and I would like to relate to you a couple of things that stand out about Jack. I think they are important to share with you regarding the character of this individual.

I was lucky enough to have the door opened 20 years ago by a wonderful young lady who was looking for the Chair of Commerce and Labor. She had an appointment with me. She and I actually attended high school together but had not seen each other in a long time. She had a fondness for racquetball as I did, and I brought her into the group and subsequently Jack joined that group. She became Jack's wife. Jack attacked racquetball as he did everything else. You can draw your own conclusions, but "bull-in-a-china-shop" comes to mind.

I have never met anyone physically and intellectually as tough as this individual. However, that juxtaposes against the real heart of the man and for those of you who did not serve during the 1991 Session you may not relate as well to this as those of us who served at that time.

We had a colleague named Nick Horn who was a great athlete, a warm and intelligent individual, who worked very hard. During his tenure, he was struck with a serious cancer. He had been appointed by then Majority Leader Vergiels to be Chair of Finance in 1991. We all knew that Nick was very ill. No one spent more time with Nick, no one was more concerned about Nick's health and no one worked harder to see that the process of the Legislature was adjusted to accommodate Nick during the terrible time he was going through than then Majority Leader, Jack Vergiels.

Those of us who were close to Nick saw what he was going through. Nick and I were in the same class and close in age. We had a fondness for sports. Nick never lost the twinkle in his eye, even though he knew he was ill. It was Jack Vergiels who took care of our colleague. You knew Nick was being taken care of by someone special. That is the part of Jack Vergiels that most of you will never see and will never know.

He has taught most of us in this room about politics, about toughness and about how this unique game is played. Forever, I will remember the fact that he taught me about humanity.

Resolution adopted.

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

Senate in recess at 12:09 p.m.

SENATE IN SESSION

At 12:12 p.m.

President pro Tempore Amodei presiding.

Quorum present.

Senator Titus requested that the remarks of former Senator John "Jack" Vergiels be entered in the Journal.

FORMER SENATOR VERGIELS:

Thank you. I never thought I would see this day. Thank God, I am here. This month has been quite an experience. My doctor is here with me today. I want to say to you that I love all of you. I cannot wait to get back here, if that is possible. If it is not possible, so be it.

I am touched by this resolution and the write-up that appeared in the newspaper. Thank you from the bottom of my heart. I appreciate all that you have done for me, both the Democrats and the Republicans.

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

Senate in recess at 12:17 p.m.

#### SENATE IN SESSION

At 12:30 p.m.

President pro Tempore Amodei presiding.

Quorum present.

Assembly Concurrent Resolution No. 9.

Resolution read.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 64.

"SUMMARY—Urges the Commission on Economic Development , regional economic development authorities and local redevelopment agencies to promote economic development and urban renewal and to stimulate employment in certain areas. (BDR R-191)"

"ASSEMBLY CONCURRENT RESOLUTION—Urging the Commission on Economic Development , regional economic development authorities and local redevelopment agencies to develop programs to promote economic development and urban renewal and to stimulate employment in certain areas."

WHEREAS, The health, safety and welfare of the people of this State are dependent upon a healthy economy and vibrant communities; and

WHEREAS, The continual encouragement, development, growth and expansion of private enterprise within the State require a cooperative and continuous partnership between government and private organizations; and

WHEREAS, There are certain depressed and blighted areas in this State that need the particular attention of government, business, labor and the residents of Nevada to help attract private investment into the area; and

WHEREAS, Many older neighborhoods in urban areas are in need of a redevelopment program focused on breathing new life into deteriorated areas plagued by social, environmental or economic conditions which act as a barrier to new investment by private enterprise; and

WHEREAS, Many of these areas are fully populated communities in this State that have not benefited from any new growth or new industry in years,



and this has led to a depressed economy, a negative image for the community and a lost sense of pride among its residents; and

WHEREAS, As taxpayers in this State, the residents of these areas deserve to see a portion of the revenue from their tax dollars used to restore and strengthen their communities, thereby improving their quality of life; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislature hereby urges the Commission on Economic Development , regional economic development authorities and local redevelopment agencies to establish ~~the program~~ programs of economic development for the older neighborhoods in depressed areas of this State to improve economic prosperity and create economic benefits for the community, its residents, the local government and the State; and be it further

RESOLVED, That the Commission on Economic Development ~~is~~ , regional economic development authorities and local redevelopment agencies are encouraged to utilize the provisions of Senate Bill No. 229 of the 2005 Legislative Session which became effective on October 1, 2005, to promote the growth of business and industry in certain deprived areas in this State, thereby creating new jobs, increased property values and an enhanced standard of living desired by all Nevadans; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Commission on Economic Development ~~is~~ , Nevada Development Authority, Economic Development Authority of Western Nevada, Northern Nevada Development Authority, Elko County Economic Diversification Authority, Economic Development Authority for Esmeralda and Nye Counties, Churchill Economic Development Authority, Humboldt County Development Authority, White Pine County Economic Diversification Council, Pershing County Economic Development Authority, Lander Economic Development Authority, Mineral County Economic Development Authority, Lincoln County Regional Development Authority, Eureka County Economic Development Council, Western Nevada Development District, Clark County Redevelopment Agency, Las Vegas Redevelopment Agency, Reno Redevelopment Agency, Henderson Redevelopment Agency, North Las Vegas Redevelopment Agency, Sparks Redevelopment Agency, Carson City Redevelopment Agency, Elko Redevelopment Agency, Douglas County Redevelopment Agency, Boulder City Redevelopment Agency and Mesquite Redevelopment Agency.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Senator Raggio moved that the Secretary of the Senate dispense with reading the histories and titles of all bills and resolutions this legislative day.

Motion carried.

Assembly Joint Resolution No. 1.

Senator Nolan moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Joint Resolution No. 9.

Senator Nolan moved that the resolution be referred to the Committee on Natural Resources.

Motion carried.

Assembly Joint Resolution No. 10.

Senator Nolan moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Joint Resolution No. 1 of the 22nd Special Session.

Senator Nolan moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senator Beers has approved the addition of Senator Lee as a sponsor of Senate Bill No. 325.

#### INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 558—AN ACT making appropriations to northern and southern Nevada music therapy programs for the purchase of various equipment; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 4.

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

Motion carried.

Assembly Bill No. 8.

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

Motion carried.

Assembly Bill No. 37.

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

Motion carried.

Assembly Bill No. 38.

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

Motion carried.

Assembly Bill No. 52.

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

Motion carried.

Assembly Bill No. 54.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 58.

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

Motion carried.

Assembly Bill No. 71.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 72.

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

Motion carried.

Assembly Bill No. 76.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Transportation and Homeland Security.

Remarks by Senator Nolan.

Motion carried.

Assembly Bill No. 106.

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

Motion carried.

Assembly Bill No. 127.

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

Motion carried.

Assembly Bill No. 136.

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

Motion carried.

Assembly Bill No. 176.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 227.

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

Motion carried.

Assembly Bill No. 247.

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

Motion carried.

Assembly Bill No. 282.

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

Motion carried.

Assembly Bill No. 289.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 299.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 307.

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

Motion carried.

Assembly Bill No. 329.

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

Motion carried.

Assembly Bill No. 334.

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

Motion carried.

Assembly Bill No. 350.

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

Motion carried.

Assembly Bill No. 353.

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

Motion carried.

Assembly Bill No. 358.

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

Motion carried.

Assembly Bill No. 359.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 366.

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

Motion carried.

Assembly Bill No. 373.

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

Motion carried.

Assembly Bill No. 380.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 381.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 404.

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

Motion carried.

Assembly Bill No. 468.

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

Motion carried.

Assembly Bill No. 483.

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

Motion carried.

Assembly Bill No. 497.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 512.

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

Motion carried.

Assembly Bill No. 515.

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

Motion carried.

Assembly Bill No. 552.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 554.

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

Motion carried.

Assembly Bill No. 560.

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

Motion carried.

Assembly Bill No. 575.

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

Motion carried.

Assembly Bill No. 585.

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

Motion carried.

Assembly Bill No. 589.

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

Motion carried.

Assembly Bill No. 593.

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

Motion carried.

Assembly Bill No. 601.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Government Affairs.

Motion carried.

#### SECOND READING AND AMENDMENT

Senate Bill No. 74.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 271.

"SUMMARY—Revises provisions governing expenditure of money in infrastructure fund of certain counties. (BDR 32-255)"

"AN ACT relating to infrastructure funds; specifying additional purposes for which money in the infrastructure fund of certain counties may be expended; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes counties to enact an ordinance imposing a tax for infrastructure. (NRS 377B.100) In a county whose population is less than 100,000 (currently Carson City, Elko, Douglas, Nye, Lyon, Churchill, Humboldt, White Pine, Pershing, Lander, Mineral, Lincoln, Storey, Eureka and Esmeralda Counties), the tax may be imposed on retailers at a rate of not more than one-quarter of 1 percent of gross receipts. (NRS 377B.110) The tax imposed by such counties is required to be paid to the Department of Taxation and, after an amount is deducted as compensation to the State for collecting the tax, the remainder is transferred to the county treasurer of the county from which it was collected. (NRS 377B.130) The money is then deposited in the county treasury for credit to the infrastructure fund. (NRS 377B.150) The permissible expenditures from the infrastructure fund are set forth in NRS 377B.160.

Section 1 of this bill provides that money in the infrastructure fund of such counties may also be expended for *certain* projects relating to streets and highways that are described in subsection 2 of NRS 373.028, and for the acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or *to cultural and recreational or* judicial functions.

Existing law also authorizes the board of county commissioners in such counties to issue bonds and other securities to obtain money to pay the cost of authorized projects. (NRS 377B.190) Section 1 of this bill provides that money in the infrastructure fund of such counties may also be expended for the payment of principal and interest on such bonds and other securities.

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

Section 1. NRS 377B.160 is hereby amended to read as follows:

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in ~~[such a]~~ the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, *expended* by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

↪ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included in a plan adopted by the board of county commissioners pursuant to subsection 6 of NRS 377B.100 before January 1, 2003; or

(d) Any combination of those purposes.



3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

- (1) Water facilities; or
- (2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) ~~Projects for the construction, maintenance or repair of streets and highways that are~~ described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to ~~((d))~~ (f), inclusive; or

~~((h))~~ (h) Any combination of those purposes.

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

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 85.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 268.

"SUMMARY — ~~Prohibits use of eminent domain to acquire property for economic development.~~ Makes various changes to provisions relating to eminent domain. (BDR 3-9)"

"AN ACT relating to eminent domain; prohibiting the use of eminent domain to acquire property for the purpose of ~~economic development;~~ transferring an interest in the property to a private person or entity except in certain circumstances; making various other changes relating to eminent domain; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law lists the purposes for which the power of eminent domain may be exercised. (NRS 37.010) In *Kelo v. City of New London*, 125 S.Ct.

2655 (2005), the United States Supreme Court ruled that private property may be acquired by eminent domain and transferred to a private party for the purpose of obtaining the benefits of economic development. *Assembly Joint Resolution No. 3 proposes an amendment to the Nevada Constitution concerning eminent domain.* This bill *enacts into statute the provisions of Assembly Joint Resolution No. 3.*

*Section 4 of this bill prohibits, except in certain circumstances, the exercise of eminent domain to acquire property if the entity acquiring the property ~~plans to~~ will transfer any interest in the property to a private person or entity. ~~and the primary public benefit of the acquisition is economic development.~~ In addition, section 4 provides that the entity which is taking the property has the burden of proving that the taking is for a public use.*

*Existing law allows an entity which is taking property by the exercise of eminent domain to move the court for an order allowing the entity to occupy the property, pending a final judgment in the action. (NRS 37.100) Section 5 of this bill requires an entity which is taking property by the exercise of eminent domain to provide the owner of the property with all appraisals of the property obtained by the entity before the entity is allowed to occupy the property. Furthermore, section 5 requires the court to determine at the occupancy hearing whether the taking is for a public use, if the owner of the property that is the subject of the action requests such a determination.*

*Sections 2, 6 and 7 of this bill provide for the manner of computing the just compensation owed to the person whose property is taken by the exercise of eminent domain. Section 1 of this bill provides that neither the property owner nor an entity which is taking property by the exercise of eminent domain is liable for the attorney's fees of the other party, except in certain circumstances. Section 9 of this bill provides that the owner of property taken by the exercise of eminent domain, or his successor in interest, has the right to reacquire the property for the price paid by the entity which took the property under certain circumstances.*

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

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

*Except as otherwise provided in this section, in all actions in eminent domain, neither the entity that is taking property nor the owner of the property is liable for the attorney's fees of the other party. This section does not apply in an inverse condemnation action if the owner of the property that is the subject of the action makes a request for attorney's fees from the other party to the action.*

*Sec. 2. NRS 37.009 is hereby amended to read as follows:*

37.009 As used in this chapter, unless the context otherwise requires:

1. "Date of valuation" means the date on which the value of the property actually taken, and the damages, if any, to the remaining property, must be determined.

2. "Final judgment" means a judgment which cannot be directly attacked by appeal, motion for new trial or motion to vacate the judgment.

3. "Judgment" means the judgment determining the right to condemn property and fixing the amount of compensation to be paid by the plaintiff.

4. "Partnership" includes a limited partnership.

5. "Person" includes a government, governmental agency or political subdivision of a government.

6. "Value" means the ~~most probable price which a property would bring in a competitive and open market under the conditions of a fair sale, without the price being affected by undue stimulus, whereby the sale is consummated on a specified date and the title to the property is passed from the seller to the buyer under the following conditions:~~

~~(a) The buyer and seller are acting prudently and knowledgeably;~~

~~(b) The buyer and seller are typically motivated;~~

~~(c) The buyer and seller are well informed or well advised and acting in what they consider are their own best interests;~~

~~(d) A reasonable time is allowed to expose the property for sale on the open market;~~

~~(e) Payment is made with United States dollars in cash or pursuant to another financial arrangement comparable thereto; and~~

~~(f) The sale price represents the normal consideration for the property and is unaffected by special or creative financing or sales concessions granted by any person associated with the sale.~~ highest price, on the date of valuation, that would be agreed to by a seller, who is willing to sell on the open market and has reasonable time to find a purchaser, and a buyer, who is ready, willing and able to buy, if both the seller and the buyer had full knowledge of all the uses and purposes for which the property is reasonably adaptable and available. In determining value, except as otherwise provided in this subsection, the property sought to be condemned must be valued at its highest and best use without considering any future dedication requirements imposed by the entity that is taking the property. If the property is condemned primarily for a profit-making purpose, the property sought to be condemned must be valued at the use to which the entity that is condemning the property intends to put the property, if such use results in a higher value for the property.

~~Section 1.~~ Sec. 3. NRS 37.0095 is hereby amended to read as follows:

37.0095 1. Except as otherwise provided in subsection 2, only a public agency may exercise the power of eminent domain pursuant to the provisions of this chapter.

2. Except as otherwise provided in NRS 37.0097, the power of eminent domain may be exercised by a person who is not a public agency pursuant to

NRS 37.230 and ~~subsections 6, 8, 10, 13 and 16~~ paragraphs (f), (h), (j), (m) and (p) of subsection 1 of NRS 37.010.

3. As used in this section, "public agency" means an agency or political subdivision of this State or the United States.

~~Sec. 2.]~~ Sec. 4. NRS 37.010 is hereby amended to read as follows:

37.010 1. Subject to the provisions of this chapter ~~1.] and the limitation]~~ ~~limitations in subsection 2.]~~ subsections 2 and 3. the right of eminent domain may be exercised in behalf of the following public ~~purposes:]~~ uses:

~~1.]~~ (a) Federal activities. All public purposes authorized by the Government of the United States.

~~2.]~~ (b) State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

~~3.]~~ (c) County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

~~4.]~~ (d) Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

~~5.]~~ (e) Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

~~6.]~~ (f) Mining, smelting and related activities. Mining, smelting and related activities as follows:

~~(a)]~~ (1) Mining and related activities, which are recognized as the paramount interest of this State.

~~(b)]~~ (2) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural gas or oil, an occupancy in

common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

~~{7.}~~ (g) Byroads. Byroads leading from highways to residences and farms.

~~{8.}~~ (h) Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

~~{9.}~~ (i) Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

~~{10.}~~ (j) Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

~~{11.}~~ (k) Cemeteries, public parks. Cemeteries or public parks.

~~{12.}~~ (l) Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.

~~{13.}~~ (m) Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

~~{14.}~~ (n) Aviation. Airports, facilities for air navigation and aerial rights-of-way.

~~{15.}~~ (o) Monorails. Monorails and any other overhead or underground system used for public transportation.

~~{16.}~~ (p) Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services. The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

~~{(a)}~~ (1) It creates no substantial detriment to the service provided by the utility;

~~{(b)}~~ (2) It causes no irreparable injury to the utility; and

~~{(c)}~~ (3) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

~~{17.}~~ (q) Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

~~2. Notwithstanding any other provision of law f, the State, a political subdivision of the State and any other entity which has the power to acquire property by the exercise of eminent domain shall not acquire property by the exercise of eminent domain if:~~

~~(a) The State, political subdivision or entity plans to transfer any interest in the property acquired by the exercise of eminent domain to a private entity; and~~

~~(b) The sole or primary benefit to the public from the acquisition of the property is economic development that increases the tax base, tax revenues, the level of employment or the general economic health of a community;] and except as otherwise provided in this subsection, the public uses for which private property may be taken by the exercise of eminent domain do not include the direct or indirect transfer of any interest in the property to another private person or entity. Property taken by the exercise of eminent domain may be transferred to another private person or entity in the following circumstances:~~

(a) The entity that took the property transfers the property to a private person or entity and the private person or entity uses the property primarily to benefit a public service, including, without limitation, a utility, railroad, public transportation project, pipeline, road, bridge, airport or facility which is owned by a governmental entity.

(b) The entity that took the property leases the property to a private person or entity that occupies an incidental part of an airport or a facility which is owned by a governmental entity and, before leasing the property:

(1) Uses its best efforts to notify the person from whom the property was taken that the property will be leased to a private person or entity that will occupy an incidental part of an airport or facility which is owned by a governmental entity; and

(2) Provides the person from whom the property was taken with an opportunity to bid or propose on an equal basis with others.

(c) The entity that took the property:

(1) Took the property in order to acquire property that was abandoned by the owner, abate an immediate threat to the safety of the public or remediate hazardous waste; and

(2) Grants a right of first refusal to the person from whom the property was taken which allows that person to reacquire the property on the same terms and conditions that are offered to the other private person or entity.

(d) The entity that took the property transfers an interest in the property to a private person or entity in exchange for an interest in the property which was taken, or is being taken, by the exercise of eminent domain or under the threat of the exercise of eminent domain for the purpose of a road or highway, the relocation of public or private structures or to facilitate or avoid payment of excessive compensation or damages.

(e) The person from whom the property is taken consents to the taking.

3. The entity that is taking property by the exercise of eminent domain has the burden of proving that the taking is for a public use.

4. For the purposes of this section, an airport authority or any public airport is not a private person or entity.

Sec. 5. NRS 37.100 is hereby amended to read as follows:

37.100 1. Before the plaintiff obtains possession of the property, the plaintiff shall give to the owner of the property a copy of all appraisals of the property obtained by the plaintiff.

2. The plaintiff may move the court or a judge thereof at any time after the commencement of suit, on notice for such time as the court or judge may direct to the defendant if he is a resident of the county or has appeared in the action, otherwise by serving a notice directed to him on the clerk of the court, for an order permitting the plaintiff to occupy the premises sought to be condemned, pending the entry of judgment, and to do such work thereon as may be required for the easement, fee, or property rights sought, according to its nature.

~~{2. The}~~

3. *At the occupancy hearing, the court shall make a separate and distinct determination as to whether the property is being taken for a public use pursuant to NRS 37.010, if the defendant requests such a determination.*

4. *If the defendant does not request a determination pursuant to subsection 3 or if the court determines that the property is being taken for a public use pursuant to NRS 37.010, the court or judge shall take proof, by affidavit or otherwise, of the value of the premises sought to be condemned, the damages which will accrue from the condemnation and the reasons for requiring a speedy occupation, and shall grant or refuse the motion according to the equity of the case and the relative damages which may accrue to the parties.*

~~{3}~~ 5. If the motion is granted, the court or judge shall require the plaintiff to execute and file in court a bond to the defendant, with sureties, to be approved by the court or judge in a penal sum to be fixed by the court or judge, not less than double the value of the premises sought to be condemned and the damages which will ensue from condemnation and occupation, as the value and damages may appear to the court or judge on the hearing, and conditioned to pay the adjudged value of the premises and all damages if the property is condemned, and to pay all damages arising from occupation before judgment if the premises are not condemned, and all costs adjudged to the defendant in the action. The sureties shall justify before the court or judge, after a reasonable notice to the defendant of the time and place of justification.

~~{4}~~ 6. In lieu of a bond the plaintiff, with the consent of the court, may deposit with the clerk of the court a sum equal to the value of the premises plus damages, as appraised by the plaintiff. Upon application of the defendant and upon notice to all parties, the court or judge may order the money deposited with the clerk of the court or any part thereof to be paid to the defendant. If the amount of the compensation awarded upon judgment is less than the sum deposited and paid to the defendant, the court shall enter judgment in favor of the plaintiff and against the defendant for the amount of the excess. Application by the defendant to the court for withdrawal of part or all of the money deposited and the payment of that money to the defendant does not prejudice the right of the defendant to contest the amount of compensation to be finally awarded. The receipt by the defendant of a part or

all of the money deposited must be conditioned upon the waiver of all defenses except those relating to the amount of compensation.

~~5~~ 7. The amount of the penal bond or the deposit is for the purpose of the motion only and is not admissible in evidence on final hearing.

~~6~~ 8. The court or judge may also restrain the defendant from hindering or interfering with the occupation of the premises and the doing thereon of the work required for the easement, fee, or property rights.

~~7~~ 9. The provisions of this section requiring the execution and filing of a bond do not apply in any action or proceeding in which the State of Nevada is the plaintiff, but the public faith and credit of the State of Nevada, is hereby pledged as security in lieu of the bond. The provisions of this subsection do not prevent the State of Nevada from depositing, in lieu of a pledge of the public faith and credit, with the clerk of the court a sum equal to the value of the premises plus any damages as appraised by the State.

Sec. 6. NRS 37.120 is hereby amended to read as follows:

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

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

3. In all actions in eminent domain, the court shall award just compensation to the owner of the property that is being taken. Just compensation is that sum of money necessary to place the property owner in the same position monetarily as if the property had never been taken, excluding any governmental offsets except special benefits. Special benefits may only offset severance damages and may not offset the value for the property. Just compensation for the property taken by the exercise of eminent domain must include, without limitation, interest computed pursuant to NRS 37.175 and reasonable costs and expenses, except attorney's fees, incurred by the owner of the property that is the subject of the action.

4. As used in this section, "primarily" means the greater amount, quantity or quality of acts of the plaintiff or the defendant or, if there is more than one defendant, the total delay caused by all the defendants, that would cause the date of the trial to be continued past 2 years after the date of the first service of the summons.

Sec. 7. NRS 37.175 is hereby amended to read as follows:

37.175 1. Except as otherwise provided in this section, the plaintiff shall pay interest on the final judgment ~~for the difference between the~~



~~amount deposited pursuant to NRS 37.100 or 37.170 and the sum of the amount awarded for the taking] and any damages awarded for the severance of the property, excluding costs and attorney's fees, from the date [of the first service of the summons] ordered by the district court pursuant to paragraph (a) of subsection 2 until the date the judgment is satisfied, at the rate provided in ~~[NRS 17.130.]~~ paragraph (b) of subsection 2.~~

2. ~~The [plaintiff is not required to pay interest on any amount deposited pursuant to the provisions of NRS 37.100 or 37.170.~~

~~3.— No interest is required to be paid for the period from the date of a trial which is continued past 2 years after the date of the first service of the summons, until the date of entry of judgment, if the continuance was caused primarily by the defendant or, if there is more than one defendant, the total delay caused by all the defendants. As used in this subsection, "primarily" means the greater amount, quantity or quality of acts of the plaintiff or the defendant or, if there is more than one defendant, the total delay caused by all defendants, that would cause the trial to be continued past 2 years after the date of the first service of the summons.] court shall determine, in a posttrial hearing, the award of interest and award as interest the amount of money which will put the person from whom the property is taken in as good a position monetarily as if the property had not been taken. The district court shall enter an order concerning:~~

(a) The date on which the computation of interest will commence;

(b) The rate of interest to be used to compute the award of interest, which must not be less than the prime rate of interest plus 2 percent; and

(c) Whether the interest will be compounded annually.

Sec. 8. NRS 37.260 is hereby amended to read as follows:

37.260 1. ~~[Any]~~ Except as otherwise provided in NRS 37.270, any real property, interest therein or improvement thereon which has been acquired in accordance with the provisions of this chapter or purchased under the threat of eminent domain proceedings by an association, commission, corporation, partnership or political subdivision other than a county or incorporated city may be disposed of as surplus by that entity only in accordance with the provisions of this section.

2. The governing body of the entity desiring to dispose of the property pursuant to this section must first adopt a resolution declaring that the property is no longer required for the purposes for which it was acquired or for other reasonable public use.

3. The property, interest or improvement disposed of pursuant to this section must be sold by the entity to the highest bidder bidding for the property, either at public auction or by sealed bids, the notice and terms of which must be published in a newspaper of general circulation in the county where the property is situated at least once not less than 15 nor more than 45 days before the sale. When, in the opinion of the governing body of the entity, the property cannot be sold by means of public auction or sealed bids without working an undue hardship upon a property owner either as a result

of a severance of that owner's property or a denial of access to a public street or highway, the governing body may first offer the property to that owner at a price determined by the governing body to be in the best interest of the corporation, partnership, association, commission or political subdivision.

4. ~~4. If property is disposed of pursuant to this section, it is conclusively presumed in favor of any purchaser for value and without notice of any such real property, interest therein or improvement thereon conveyed pursuant to this section that the entity disposing of it acted within its lawful authority in acquiring and disposing of the property, and that the officers thereof acted within their lawful authority in executing any conveyance vesting title in the purchaser. All such conveyances must be quitclaim in nature and must not carry any warranty of title.~~

*Sec. 9. NRS 37.270 is hereby amended to read as follows:*

37.270 Notwithstanding any other provision of law, ~~if the State of Nevada, any political subdivision of the State or other governmental entity that has acquired~~ property taken pursuant to the provisions of this chapter ~~it~~ must be offered to and reverts to the person from whom the property was taken upon repayment of the original purchase price if, within 15 years after obtaining possession of the property, the entity that took the property:

1. ~~Fails to use the property for the public purpose for which it was acquired; and~~ use for which the property was taken or for any public use reasonably related to the public use for which the property was taken; or

2. Seeks to convey the right, title or interest in all or part of that property to any person;

~~within 15 years after the property is acquired, the person from whom the property was acquired or his successor in interest must be granted the right of first refusal to purchase the right, title or interest in the property sought to be conveyed for fair market value which shall be deemed to be an amount which does not exceed the proportional amount paid by the State, political subdivision or other governmental entity for the acquisition of the property; and the conveyance is not occurring pursuant to subsection 2 of NRS 37.010.~~

~~The entity that has taken the property does not fail to use the property under subsection 1 if the entity has begun active planning for or design of the public use, the assembling of land in furtherance of planning for or design of the public use or construction related to the public use.~~

~~Sec. 3~~ *Sec. 10. NRS 279.471 is hereby amended to read as follows:*

279.471 1. Except as otherwise provided in this subsection, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if the agency adopts a resolution that includes a written finding by the agency that a condition of blight exists for each individual parcel of property to be acquired by eminent domain. An agency may exercise the power of eminent domain to acquire a parcel of property that is not blighted for a redevelopment project if the agency adopts a resolution that includes a written finding by the agency that a condition of

blight exists for at least two-thirds of the property within the redevelopment area at the time the redevelopment area was created.

2. In addition to the requirement set forth in subsection 1, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if:

(a) The property sought to be acquired is necessary to carry out the redevelopment plan;

(b) The agency has adopted a resolution of necessity that complies with the requirements set forth in subsection 3; and

(c) The agency has complied with the provisions of NRS 279.4712.

3. A resolution of necessity required pursuant to paragraph (b) of subsection 2 must set forth:

(a) A statement that the property will be acquired for purposes of redevelopment as authorized pursuant to ~~subsection 17~~ *paragraph (q) of subsection 1* of NRS 37.010 and subsection 2 of NRS 279.470;

(b) A reasonably detailed description of the property to be acquired;

(c) A finding by the agency that the public interest and necessity require the acquisition of the property;

(d) A finding by the agency that acquisition of the property will be the option for redevelopment that is most compatible with the greatest public good and the least private injury; and

(e) A finding by the agency that acquisition of the property is necessary for purposes of redevelopment.

4. After an agency adopts a resolution pursuant to subsection 1 or 2, the resolution so adopted and the findings set forth in the resolution are final and conclusive and are not subject to judicial review unless credible evidence is adduced to suggest that the resolution or the findings set forth therein were procured through bribery or fraud.

*Sec. 11. NRS 37.112 and 37.190 are hereby repealed.*

~~Sec. 4.~~ *Sec. 12. The amendatory provisions of this act apply to an action in eminent domain that is filed on or after October 1, 2007.*

TEXT OF REPEALED SECTIONS

37.112 Valuation of property subject to condemnation as result of public work or project.

1. Except as otherwise provided in subsection 2, if the property is subject to condemnation as a result of a public work or public improvement, any decrease or increase in the fair market value of the property before the date of valuation which is caused by:

(a) The public work or public improvement for which the property is acquired; or

(b) The likelihood that the property would be acquired for such a purpose, must be disregarded when assessing the value of the property pursuant to NRS 37.110.

2. Any decrease or increase in the fair market value of the property before the date of valuation resulting from physical deterioration within the

reasonable control of the owner is not required to be disregarded pursuant to subsection 1.

37.190 Costs: Allowance and apportionment. Costs may be allowed or not, and if allowed may include a maximum of \$350 for appraisal reports used at the trial and \$150 for fees of expert witnesses who testify at the trial, and may be apportioned between the parties on the same or adverse sides, in the discretion of the court.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Thank you, Mr. President pro Tempore. The sponsor of this bill requested the draft of the bill following the decision issued by the United States Supreme Court, the so-called "Kelo" decision. The testimony was that this sponsor invited the committee to use this bill as a vehicle to do, in essence, what we had to do or what we thought we had to do with eminent domain. The result is an amendment that basically reflects an agreement following a discussion between Clark County, a hand-full of Legislators and some of the proponents of "PISTOL"; or Question 2. It basically guts the bill but includes some provisions that I want to put on the record.

Section 1 is amended so that there are no attorneys' fees awarded in a condemnation action. Section 2 expands the definition of value to basically mean "best use." Section 4 prohibits the direct or indirect conveyance to a private party property that has been taken by eminent domain, except in limited circumstances. Section 5 states that the landowner is entitled to all appraisals before the government takes possession of the property which it can do upon motion in an eminent domain action if it elects to go that route. Section 6 defines "just compensation." Section 7 explains the computation of interest in an award. Section 9 is the reversion section which, basically, states that if the government does not use the property that it claimed it needed for public use and does not use it within 15 years, then the original owner can buy it back at the original price, or if the government wants to convey it after 15 years and has not put it to use, the former landowner gets the right of first refusal.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 148.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 162.

"SUMMARY—~~[Revising]~~ Revises certain provisions of the Uniform Principal and Income Act (1997)" ~~[governing disbursements made from principal and income.]~~ (BDR 13-903)

"AN ACT relating to trusts; revising certain provisions of the Uniform Principal and Income Act (1997) governing the allocation of distributions from certain entities to principal and income; revising certain provisions ~~[of the Uniform Principal and Income Act (1997)]~~ governing disbursements made from principal and income; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a trustee must allocate to the principal of the trust money received in total or partial liquidation of certain entities. (NRS 164.825) Section 1 of this bill replaces this provision by requiring a

trustee to allocate to principal money received in a distribution if the trustee determines that the distribution is a return of capital. To determine the extent to which money received in a distribution is a return of capital, the trustee may rely upon and determine the weight to be given to certain information and the trustee is not bound by a statement of the entity which made the distribution. If the trustee is in doubt about the portion of the distribution that is a return of capital, the trustee must allocate to income the amount the trustee believes is clearly not a return of capital and the trustee must allocate to principal any remaining amount.

Under existing law, regular compensation for the services of a trustee and any person providing investment services to the trustee must be paid evenly out of the principal of the trust and the income from the trust. (NRS 164.900, 164.905) ~~[This]~~ Sections 2 and 3 of this bill ~~[provides]~~ provide that the amount paid for regular compensation out of income must not exceed 5 percent of income for that portion of the accounting period on which the compensation is based.

For example, under existing law, if regular compensation owed to a trustee is \$20,000 for one year, \$10,000 is paid out of principal and \$10,000 is paid out of income, regardless of income for that year. Under the provisions of ~~[this bill]~~ sections 2 and 3 of this bill, the amount of income for the year would first be determined. Assuming the amount of income for the year were \$100,000 and the regular compensation owed to a trustee were \$20,000, then \$5,000 would be paid out of income and the remaining \$15,000 would be paid out of principal. However, if the amount of income for the year were \$200,000 instead of \$100,000, then regular compensation would be paid evenly out of income and principal, as under existing law, because the amount paid out of income, \$10,000, would not exceed the cap of 5 percent of income.

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

*Section 1. NRS 164.825 is hereby amended to read as follows:*

164.825 1. As used in this section, "entity" means a corporation, partnership, limited-liability company, regulated investment company, real estate investment trust, common trust fund or any other organization in which a trustee has an interest other than a trust or estate to which NRS 164.830 applies, a business or activity to which NRS 164.835 applies or an asset-backed security to which NRS 164.895 applies.

2. Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

3. A trustee shall allocate the following receipts from an entity to principal:

- (a) Property other than money;
- (b) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(c) Money received in ~~[total or partial liquidation of the entity;]~~ a distribution if and to the extent that the trustee determines that the distribution is a return of capital; and

(d) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

4. ~~Money is received in partial liquidation:~~

~~(a) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or~~

~~(b) If the total amount of money and property received in a distribution or series of related distributions is greater than 20 percent of the entity's gross assets, as shown by the entity's year end financial statements immediately preceding the initial receipt.~~

~~5. Money is not received in partial liquidation, nor may it be taken into account under paragraph (b) of subsection 4.] A trustee may determine that money is received as a return of capital if and to the extent that [it does not exceed] the money received exceeds the total amount of income tax that [a trustee or beneficiary] the beneficiaries must pay on their respective shares of the taxable income of the entity [that distributes the money.] and the trust must pay from income under NRS 164.810 to 164.925, inclusive, on its share of the taxable income of the entity. A trustee may determine that money which represents gain upon the sale or other disposition of property described in subsection 5 is a return of capital.~~

5. In determining if and to what extent a distribution is a return of capital, a trustee may rely upon and determine the weight to be given to any information concerning the source of the money from which the distribution is made which is reasonably available to the trustee, including, without limitation, information concerning:

(a) The amount of the distribution in question compared to the amount of the entity's regular, periodic distributions, if any, during the year in which the distribution is made and in prior years;

(b) If the primary activity of the entity is not an investment activity described in paragraph (c), the amount of money the entity has received from the conduct of its normal business activities compared to the amount of money the entity has received from all other sources, including, without limitation:

(1) The sale of all or part of a business conducted by the entity or by another entity in which it owns an interest, directly or indirectly, including, without limitation, money representing any gain realized on such a sale;

(2) The sale of one or more business assets that are not sold to customers in the normal course of the entity's business, including, without limitation, money representing any gain realized on such a sale; and

(3) The sale of one or more investment assets, including, without limitation, money representing any gain realized on such a sale;

(c) If the primary activity of the entity is to invest funds in another entity or in investment property that the entity owns directly for the purpose of realizing gain on the disposition of all or a part of such an investment, the amount of money that the entity has received from the sale of all or part of one or more of those investments, including, without limitation, money representing any gain realized on such a disposition;

(d) The amount of money the entity has accumulated, to the extent that the governing body of the entity has decided the money is no longer needed for the business or investment needs of the entity;

(e) The amount of income tax, if any, that each beneficiary has paid on the undistributed income of the entity before the year of the distribution and the amount of income tax on the undistributed income of the entity that the trust has paid from the income or principal of the trust;

(f) The amount of money the entity has borrowed, whether or not repayment of the loan is secured to any extent by one or more of the entity's assets;

(g) The amount of money the entity has received from the sources described in NRS 164.855, 164.870, 164.875 and 164.880; and

(h) The amount of money the entity has received from a source not described in this subsection.

6. If a trustee is in doubt about the portion of a distribution that is a return of capital, the trustee shall resolve the doubt by allocating to income the amount, if any, the trustee believes is clearly not a return of capital and by allocating the balance of the distribution to principal.

7. A trustee may rely upon ~~the statement made~~, without independent investigation, the financial statements of an entity and any other information provided by an entity about the ~~source of~~ character of a distribution or the source of funds from which the distribution is made if the ~~statement is made~~ information is provided at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors. The trustee is not bound by any statement made or implied by the entity about the extent to which a distribution is or is not a return of capital. If the trustee receives additional information about the distribution after the trustee has decided the amount that is a return of capital, the trustee is not required to change that decision.

~~Section 1.~~ Sec. 2. NRS 164.900 is hereby amended to read as follows:

164.900 A trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subsection 2 of NRS 164.800 applies:

1. One-half of the regular compensation of the trustee and of any person providing advisory or custodial services to the trustee concerning investment ~~;~~, except that the amount of the disbursements from income made pursuant

*to this subsection must not exceed 5 percent of income for the portion of the accounting period on which such regular compensation is based;*

2. One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

3. All the other ordinary expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

4. Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

~~{Sec. 2}~~ Sec. 3. NRS 164.905 is hereby amended to read as follows:

164.905 1. A trustee shall make the following disbursements from principal:

(a) The remaining ~~{one-half}~~ portion of the disbursements described in subsections 1 and 2 of NRS 164.900;

(b) All the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(c) Payments on the principal of a trust debt;

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(e) Premiums paid on a policy of insurance not described in subsection 4 of NRS 164.900 of which the trust is the owner and beneficiary;

(f) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.



Senate Bill No. 149.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 35.

"SUMMARY—Makes various changes to provisions governing elections. (BDR 24-4)"

"AN ACT relating to elections; providing that the governing body of a city incorporated pursuant to general law in certain larger counties shall adopt an ordinance to provide for a primary city election and general city election on the dates for state primary elections and state general elections; revising the charters of certain cities to provide for primary city elections and general city elections on the dates for state primary elections and state general elections; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that city primary and general elections must be held in odd-numbered years while state and other local primary and general elections must be held in even-numbered years. (NRS 293.12755, 293.175, 293C.115, 293C.140, 293C.145)

This bill requires a city incorporated under general law in a county whose population is 400,000 or more (currently Clark County) to adopt an ordinance setting city elections in even-numbered years. This bill also amends the charter of each city that is located in a county whose population is 400,000 or more to reflect this change in election dates. Cities affected are Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas.

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

Section 1. NRS 293C.115 is hereby amended to read as follows:

293C.115 1. ~~The~~ *Except as otherwise provided in subsection 2, the governing body of a city incorporated pursuant to general law may by ordinance provide for a primary city election and a general city election on:*

(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or

(b) The dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

2. *The governing body of a city incorporated pursuant to general law in a county whose population is 400,000 or more shall by ordinance provide for a primary city election and a general city election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.*

3. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1 ~~or~~ *or subsection 2*, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, 293.177, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.

~~3.~~ 4. If a governing body of a city adopts an ordinance pursuant to subsection 1 ~~or~~ *or is required to adopt an ordinance pursuant to subsection 2:*

(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and

(b) Each elected city official holds office until the end of his term and until his successor has been elected and qualified.

Sec. 2. NRS 293C.291 is hereby amended to read as follows:

293C.291 If a candidate whose name appears on the ballot at a primary city election or general city election dies after the applicable date set forth in:

1. NRS 293C.370; or

2. NRS 293.368, if the governing body of the city has adopted an ordinance pursuant to paragraph (a) of subsection 1 *or subsection 2* of NRS 293C.115,

↳ but before the time of the closing of the polls on the day of the election, the city clerk shall post a notice of the candidate's death at each polling place where the candidate's name will appear on the ballot for the primary city election or general city election.

Sec. 3. NRS 267.110 is hereby amended to read as follows:

267.110 1. Any city having adopted a charter pursuant to the provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the charter:

(a) All of the powers enumerated in the general laws of the State for the incorporation of cities.

(b) Such other powers necessary and not in conflict with the Constitution and laws of the State of Nevada to carry out the commission form of government.

2. The charter, when submitted, must:

(a) Fix the number of commissioners, their terms of office and their duties and compensation.

(b) Provide for all necessary appointive and elective officers for the form of government therein provided, and fix their salaries and emoluments, duties and powers.

(c) Fix, in accordance with the provisions of NRS 293C.140 and 293C.175 or with the provisions of NRS 293C.145, or with the provisions of paragraph (a) of subsection 1 *or subsection 2* of NRS 293C.115, the time for the first and subsequent elections for all elective officers. After the first election and the qualification of the officers who were elected, the old officers and all boards or offices and their emoluments must be abolished.

Sec. 4. Section 4 of the Charter of Boulder City is hereby amended to read as follows:

Section 4. Number; selection and term; recall.

1. The City Council shall have four Councilmen and a Mayor elected from the City at large in the manner provided in Article IX. ~~For terms of four years and until their successors have been elected and have taken office as provided in section 16, subject to recall as provided~~

~~in section 111.5.]~~ No Councilman shall represent any particular constituency or district of the City, and each Councilman shall represent the entire City.-(Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. *Except as otherwise provided in section 96, all Councilmen and the Mayor shall serve for 4 years, subject to recall as provided in section 111.5.*

Sec. 5. Section 16 of the Charter of Boulder City is hereby amended to read as follows:

Section 16. Induction of Council into office; meetings of Council.

1. The City Council shall meet within ~~ten~~ 10 days after each ~~city~~ primary election and each ~~city~~ general election specified in Article IX ~~]~~ to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members ~~shall~~ must be inducted into office at the next regular Council meeting following certification of the applicable ~~city~~ general election results. Immediately following such induction, the Mayor pro tem ~~shall~~ must be designated as provided in section 7. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month. (Add. 13; Amd. 1; 6-2-1987; Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996; Add. 24; Amd. 1; 6-3-2003)

A. (Add. 3; Amd. 2; 5-2-1967; Repealed by Add. 15; Amd. 1; 6-4-1991)

2. It is the intent of this Charter that deliberations and actions of the Council be conducted openly. All meetings of the City Council ~~shall~~ must be in accordance with chapter 241 of ~~the Nevada Revised Statutes.]~~ NRS. (Add. 10; Amd. 1; 6-2-1981)

3. Any emergency meeting of the City Council, as defined by chapter 241 ~~shall~~ of NRS, must be as provided therein, and in addition:

(a) An emergency meeting may be called by the Mayor or upon written notice issued by a majority of the Council.

(b) Prior notice of such an emergency meeting ~~shall~~ must be given to all members of the City Council. (Add. 10; Amd. 1; 6-2-1981)

Sec. 6. Section 92 of the Charter of Boulder City is hereby amended to read as follows:

Section 92. Public parks, recreation areas, parking.

1. All public parks, public recreation areas and publicly owned off-street parking areas in existence at the time of incorporation, unless under private lease, must not be sold, leased or zoned for any other use without approval of the majority of the voters voting at a special election ~~for primary or general~~, a primary municipal and state election, or a general municipal and state election.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The

determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City.

Sec. 7. Section 96 of the Charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of ~~[city]~~ elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. ~~[All]~~ *Except as otherwise provided in subsections 3 and 4, all full terms of office in the City Council are ~~[four years, and]~~ 4 years. Council members must be elected at large without regard to precinct residency.*

3. Two ~~[full term]~~ Council members and the Mayor are to be elected ~~[in each year immediately preceding a federal presidential election, and two full term]~~ *on the first Tuesday after the first Monday in June 2011 at a general municipal election to be held for that purpose. The two Council members and the Mayor shall hold office until their successors have been elected and qualified pursuant to subsection 5.*

4. Two Council members are to be elected ~~[in each year immediately following a federal presidential election.]~~ *on the first Tuesday after the first Monday in June 2009 at a general municipal election to be held for that purpose. The two Council members shall hold office until their successors have been elected and qualified pursuant to subsection 6.*

5. *Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in November 2014 and at each successive interval of 4 years thereafter. The two Council members and the Mayor shall hold office for a period of 4 years and until their successors have been elected and qualified.*

6. *Two Council members are to be elected on the first Tuesday after the first Monday in November 2012 and at each successive interval of 4 years thereafter. The two Council members shall hold office for a period of 4 years and until their successors have been elected and qualified.*

7. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant ~~[full term]~~ positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more ~~{two-year}~~ 2-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such ~~{position(s)}~~ positions. Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~{two-year}~~ 2-year positions. (Add. 15; Amd. 2; 6-4-1991)

~~{3.—A city}~~

8. A primary election must be held on the first Tuesday after the first Monday in April of each odd-numbered year , and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name ~~{shall}~~ must not be placed on the ballot for the general city election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters ~~{shall be}~~ are entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

~~{4-}~~ 9. The conduct of all municipal elections ~~{shall be}~~ is under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 8. Section 96 of the Charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. Except as otherwise provided in subsections 3 and 4, all full terms of office in the City Council are 4 years. Council members must be elected at large without regard to precinct residency.

3. Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in June 2011 at a general municipal election to be held for that purpose. The two Council members and the Mayor shall hold office until their successors have been elected and qualified pursuant to subsection 5.

4. Two Council members are to be elected on the first Tuesday after the first Monday in June 2009 at a general municipal election to be held for that purpose. The two Council members shall hold office until their successors have been elected and qualified pursuant to subsection 6.

5. Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in November 2014 and at each successive interval of 4 years thereafter. The two Council members and the Mayor shall hold office for a period of 4 years and until their successors have been elected and qualified.

6. Two Council members are to be elected on the first Tuesday after the first Monday in November 2012 and at each successive interval of 4 years thereafter. The two Council members shall hold office for a period of 4 years and until their successors have been elected and qualified.

7. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more 2-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such positions. Candidates receiving the greatest respective number of votes must be declared elected to the respective available 2-year positions. (Add. 15; Amd. 2; 6-4-1991)

8. A primary election must be held on the ~~first Tuesday after the first Monday in April~~ *twelfth Tuesday before the general election* of each ~~odd-numbered~~ *even-numbered* year, and a ~~city~~ general election must be held on the first Tuesday after the first Monday in ~~June~~ *November* of each ~~odd-numbered~~ *even-numbered* year.

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary ~~city~~ election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name must not be placed on the ballot for the general ~~city~~ election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters are entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

9. The conduct of all municipal elections is under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 9. Section 100 of the Charter of Boulder City is hereby amended to read as follows:

Section 100. Registered voters' power of initiative and referendum concerning city ordinances.

The registered voters of a city may:

1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, ~~to~~ may adopt or reject it at a primary ~~or general~~ municipal *and state* election or ~~primary or~~ general *municipal and state* election.

2. Require reconsideration by the Council of any adopted ordinance ~~to~~ and, if the Council fails to repeal an ordinance so considered, ~~to~~ may approve or reject it ~~as~~ at a primary ~~or general~~ municipal *and state* election or ~~primary or~~ general *municipal and state* election.

Sec. 10. Section 102 of the Charter of Boulder City is hereby amended to read as follows:

Section 102. Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.

3. No initiative ordinance voted upon by the registered voters, or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary ~~or general~~ municipal *and state* election or ~~primary or~~ general *municipal and state* election.

Sec. 11. Section 119 of the Charter of Boulder City is hereby amended to read as follows:

Section 119. Amending the Charter.

1. An amendment to this Charter:

A. May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change.

(1) If a statute is enacted which directly amends this Charter, such an amendment is not subject to public approval as provided in subsection B and must be included in the Charter and identified as having been amended by the particular statute involved.

(2) If a statute is enacted which requires that this Charter be amended but does not require the specific wording to be used, the City Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided in subsection B. If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city ~~elections or general~~ and state elections until an amendment is adopted.

B. May be proposed by the City Council and submitted to the registered voters of the City at a general city ~~election or general~~ and state election.

C. May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who voted at the latest preceding general city election and submitted to registered voters of the City at the next general city ~~election or general~~ and state election.

2. The City Attorney shall draft any amendment proposed pursuant to subsections A(2) or B, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.

3. The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to subsection C, make only such corrections as are agreed to by the proposers and report to the City Council his analysis of the significance and potential effects of the proposed amendment.

4. A petition for amendment must be in the form specified by state law for city initiative petitions, and must be filed with the City Clerk not later than 6 months before the date of the general city ~~election or general~~ and state election at which the proposed amendment is to be submitted to the voters of the City.

5. When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.

6. Any amendment to the Charter proposed ~~under~~ pursuant to the provisions of this section ~~shall~~ must be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment ~~shall~~ may become effective. (Add. 25; Amd. 1; 6-3-2003)



Sec. 12. Section 138 of the Charter of Boulder City is hereby amended to read as follows:

Section 138. Sale of public utilities; proviso.

1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election ~~for primary or general~~, a *primary municipal and state* election, or ~~primary or~~ a general *municipal and state* election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools, which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City. (1959 Charter)

Sec. 13. Section 143 of the Charter of Boulder City is hereby amended to read as follows:

Section 143. Expenditures from Capital Improvement Fund.

1. All expenditures from the Capital Improvement Fund must be approved by a simple majority of the votes cast by the registered voters of the City on a proposition placed before them in a special election ~~for primary or general~~, a *primary municipal and state* election, or ~~primary or~~ a general *municipal and state* election.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City. (Add. 7; Amd. 5; 6-3-1975; Add. 16; Amd. 2; 1-1-1994)

Sec. 14. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Councilman must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. All Councilmen, including the Mayor, must be voted upon by the registered voters of the City at large and shall serve for terms of 4 years ~~[-]~~, *except as otherwise provided in section 5.020.*

5. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Councilmen during the term for which they have been elected or appointed.

Sec. 15. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary election.

1. A primary election must be held on the *twelfth* Tuesday ~~{after the first Monday in April of each odd numbered year,}~~ *before the general election in November 2012, and at each successive interval of 2 years thereafter,* at which time there must be nominated candidates for offices to be voted for at the next general ~~{municipal}~~ election.

2. A candidate for any office to be voted for at any primary ~~{municipal}~~ election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he is a candidate, he must be declared elected and no general election need be held for that office.

Sec. 16. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General ~~[municipal election.]~~ *elections.*

1. ~~[A general election must be held in the City on] On the first Tuesday after the first Monday in June [of each odd numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.~~

~~2. All candidates for the office of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 of this Charter, the term of office for a Municipal Judge is 6 years.] 2009, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and a Councilman from the Third Ward, both of whom will hold office until their successors have been elected and qualified pursuant to subsection 7.~~

2. *On the first Tuesday after the first Monday in June 2007, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified. On the first Tuesday after the first Monday in June 2011, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified pursuant to subsection 6.*

3. *On the first Tuesday after the first Monday in June [2001 and every 6 years thereafter,] 2007, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who will hold office until his successor has been elected and qualified. On the first Tuesday after the first Monday in November 2012, there must be elected by the qualified voters of the City, at a general election held for that purpose, a*

*Municipal Judge for Department 1 who will hold office until his successor has been elected and qualified pursuant to subsection 8.*

4. On the *first Tuesday after the first Monday in June* ~~[2003 and every 6 years thereafter,]~~ 2009, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified. *On the first Tuesday after the first Monday in November 2012, there must be elected by the qualified voters of the City, at a general election held for that purpose, a Municipal Judge for Department 2, who will hold office until his successor has been elected and qualified pursuant to subsection 9.*

5. On the *first Tuesday after the first Monday in June* ~~[2005 and every 6 years thereafter,]~~ 2011, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified ~~[ ]~~ *pursuant to subsection 10.*

6. *On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified.*

7. *On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Mayor and a Councilman from the Third Ward, both of whom will hold office until their successors have been elected and qualified.*

8. *On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 1 who shall hold office until his successor has been elected and qualified.*

9. *On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified.*

10. *On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified.*

11. *All candidates for the offices of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. Except as otherwise provided in subsections 1 and 2, the term*

*of office for a member of the City Council and the Mayor is 4 years. Except as otherwise provided in subsections 3, 4 and 5 and subsection 3 of section 4.015, the term of office for a Municipal Judge is 6 years.*

Sec. 17. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

- (a) A Mayor.
- (b) One Councilman from each ward.
- (c) Municipal Judges.

2. ~~The~~ *Except as otherwise provided in section 5.010, the terms of office of the Mayor and Councilmen are 4 years.*

3. *Except as otherwise provided in subsection 3 of section 4.010 ~~of this Charter,~~ or section 5.010, the term of office of a Municipal Judge is 6 years.*

Sec. 18. Section 2.310 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 416, Statutes of Nevada 2001, at page 2101, is hereby amended to read as follows:

Sec. 2.310 Powers of City Council: Acquisition or establishment of City utility.

1. Except as otherwise provided in subsection 3 of section 2.300 and section 2.315, the City Council, on behalf of the City and in its name, may acquire, establish, hold, manage and operate, alone or with any other government or any instrumentality or subdivision of any government, any public utility in the manner which is provided in this section.

2. The City Council ~~must~~ *shall* adopt a resolution which sets forth fully and in detail:

- (a) The public utility which is proposed to be acquired or established.
- (b) The estimated cost of that utility, as shown in a recent report, which has been approved by the City Council, of an engineer or consulting firm which had previously been appointed by the City Council for that purpose.
- (c) The proposed bonded indebtedness which must be incurred to acquire or establish that utility, the terms, amount and rate of interest of that indebtedness and the time within which, and the fund from which, that indebtedness is redeemable.

(d) That a public hearing on the advisability of acquiring the public utility will be held at the first regular meeting of the City Council after the final publication of the resolution.

3. The resolution must be published in full at least once a week for 4 successive weeks.

4. At the first regular meeting of the City Council, or any adjournment of that meeting, after the completion of the publication, the

City Council may, without an election, enact an ordinance for that purpose, which must conform in all respects to the terms and conditions of the resolution, unless, within 30 days after the final publication of the resolution, a petition is filed with the City Clerk which has been signed by a number of registered voters of the City which is not less than 15 percent of the registered voters of the City, as shown by the last preceding registration list, who own not less than 10 percent in assessed value of the taxable property within the City, as shown by the last preceding tax list or assessment roll, and which prays for the submission of the question of the enactment of the proposed ordinance at a special election or the next primary ~~for general~~ municipal *and state* election or ~~primary or~~ general *municipal and state* election. Upon the filing of that petition, the proposed ordinance may not be enacted or be effective for any purpose unless, at a special election or primary ~~for general~~ municipal *and state* election or ~~primary or~~ general *municipal and state* election, a majority of the votes which are cast in that election are cast in favor of the enactment of the ordinance.

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

6. If the proposed ordinance is adopted, without an election or as a result of an election, the City Council may issue bonds to obtain revenue for acquiring or constructing systems, plants, works, instrumentalities and properties which are needed in connection with that public utility.

*Sec. 18.5. Section 4.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:*

*Sec. 4.010 Municipal Court*

1. There is a Municipal Court of the City which consists of at least two departments, each of which must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first general election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 6 years, as determined by the City Council, in order to effectuate the intent of this provision that, as nearly as practicable ~~[, at]~~ :

*(a) At least one-third of the number of Municipal Judges be elected every 2 years ~~[,]~~; or*

*(b) Not more than one-half of the number of Municipal Judges be elected in any 1 year.*

4. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 19. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary ~~[municipal]~~ elections.

1. On the Tuesday after the first Monday in April ~~[2001, and at each successive interval of 4 years,]~~ 2009, a primary municipal election must be held in the City, at which time candidates for ~~[half of the offices of]~~ Councilman from the Second, Fourth and Sixth Wards and for Municipal Judge ~~[, Department 2,]~~ for Departments ~~[3]~~ 1, 4 and 6 must be nominated.

2. ~~[On the Tuesday after the first Monday in April] [2003, and at each successive interval of 4 years,] [2007, a primary municipal election must be held in the City, at which time candidates for Mayor, for] [the other half of the offices of] [Councilman from the First, Third and Fifth Wards and for Municipal Judge] [, Department 1,] ~~[for Departments 1, 5 and 6 must be nominated.~~~~

~~3.]~~ On the Tuesday after the first Monday in April 2011, a primary election must be held in the City, at which time candidates for Mayor, for Councilman from the First, Third and Fifth Wards and for Municipal Judge for Departments 2, 3 and ~~[4]~~ 5 must be nominated.

~~[4.]~~ 3. On the twelfth Tuesday before the general election in November ~~[2012,]~~ 2014, and at each successive interval of 4 years, a primary election must be held in the City, at which time candidates for Councilman from the Second, Fourth and Sixth Wards must be nominated.

~~[5.]~~ 4. On the twelfth Tuesday before the general election in November ~~[2014,]~~ 2016, and at each successive interval of 4 years, a primary election must be held in the City, at which time candidates for Mayor and for Councilman from the First, Third and Fifth Wards must be nominated.

~~6.7~~ 5. On the twelfth Tuesday before the general election in November ~~2012,~~ 2016, and at each successive interval of 6 years, a primary election must be held in the City, at which time candidates for Municipal Judge for Departments 1, 4 and ~~5,~~ 6 must be nominated.

~~7.7~~ 6. On the twelfth Tuesday before the general election in November ~~2014,~~ 2018, and at each successive interval of 6 years, a primary election must be held in the City, at which time candidates for Municipal Judge for Departments 2, 3 and ~~6,~~ 5 must be nominated.

~~8.7~~ ~~On the twelfth Tuesday before the general election in November 2016, and at each successive interval of 6 years, a primary election must be held in the City, at which time candidates for Municipal Judge for Departments 2 and 4 must be nominated.~~

~~9.7~~ 7. The candidates for Councilman who are to be nominated as provided in subsections 1 ~~and 2~~ to ~~5,~~ 4, inclusive, must be nominated and voted for separately according to the respective wards. ~~The candidates from each even numbered ward must be nominated as provided in subsection 1, and the candidates from each odd numbered ward must be nominated as provided in subsection 2.~~

~~4.7~~ ~~10.7~~ 8. If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 ~~of this Charter,~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

~~5.7~~ ~~11.7~~ 9. Each candidate for the municipal offices which are provided for in subsections 1 ~~, 2 and 4~~ to ~~10,~~ 8, inclusive, must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

~~6.7~~ ~~12.7~~ 10. If, in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, he must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general election need be held for that office. If, in the primary election, no candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general election.

Sec. 20. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:

Sec. 5.020 General ~~municipal election,~~ elections.

1. A general ~~municipal~~ election must be held in the City on the first Tuesday after the ~~1st~~ first Monday in ~~June~~ November of each



~~odd-numbered~~ *even-numbered* year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.

2. All candidates for elective office, except the office of Councilman, must be voted upon by the registered voters of the City at large.

Sec. 21. Section 5.110 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1416, is hereby amended to read as follows:

Sec. 5.110 Special elections: Registration of electors.

1. If a question is to be submitted to the registered voters of the City at a ~~municipal or state~~ primary *municipal and state* or general *municipal and state* election, no notice of registration of electors is required other than that which is required by the election laws of the State for that election. If the question is to be submitted at a special municipal election, the City Clerk shall at the expense of the City, cause to be published at least once a week for 5 consecutive weeks by five weekly insertions 1 week apart, the first publication to be not more than 60 days nor less than 45 days next preceding the election, a notice which has been signed by ~~him~~ *the City Clerk* to the effect that registration for the special election will be closed on the date which is designated in the notice, as provided in this section.

2. Except as *otherwise* provided in this subsection, the Office of the City Clerk must be open for the special election from 9 a.m. to 12 m. and from 1 p.m. to 5 p.m. on Mondays through Fridays, with legal holidays excepted, for the registration of any qualified elector.

Sec. 22. Section 1.060 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:

1. A vacancy in the City Council or in the office of Mayor or Municipal Judge must be filled by a majority vote of the members of the City Council within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official.

2. No such appointment extends beyond the first day of ~~July~~ *December* after the next municipal election, at which election the office must be filled for the remaining unexpired term.

Sec. 23. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his election.

(b) A qualified elector within the City.

3. Each Councilman:

(a) Must be a qualified elector who has resided in the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his office.

(b) Must continue to live in the ward he represents, except that changes in ward boundaries made pursuant to section 1.045 ~~[of this Charter]~~ will not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Councilman shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Councilman must be voted upon only by the registered voters of the ward that he seeks to represent, and *except as otherwise provided in section 5.010*, his term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and *except as otherwise provided in section 5.010*, his term of office is 4 years.

7. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 24. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first municipal primary or municipal general election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, ~~[in order]~~ so that, as nearly as practicable, one-third of the number of Municipal Judges ~~[be]~~ is elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department ~~[.]~~ or section 5.010, each Municipal Judge must be voted upon by the registered voters of the City at large and holds office for a period of 6 years and until his successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 25. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 5.010 General ~~[municipal]~~ elections. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~

1. On the *first* Tuesday after the first Monday in June ~~[1977, and at each successive interval of 4 years thereafter, there must]~~ 2009, there shall be elected, at a general *municipal* election to be held for that purpose, a Mayor and two Councilmen, who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ pursuant to subsection 3.

2. On the *first* Tuesday after the first Monday in June ~~[1975, and at each successive interval of 4 years thereafter, there must]~~ 2011, there must be elected, at a general election to be held for that purpose, two Councilmen ~~[.]~~ who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ pursuant to subsection 4.

3. On the *first* Tuesday after the first Monday in November 2012, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Mayor and two Councilmen, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

4. On the *first* Tuesday after the first Monday in November 2014, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election,

*two Councilmen who shall hold office for a period of 4 years and until their successors have been elected and qualified.*

*5. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 1 who shall hold office for a period of 6 years and until his successor has been elected and qualified.*

*6. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 year thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 2 who shall hold office for a period of 6 years and until his successor has been elected and qualified.*

7. In such a general election:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 26. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2692, is hereby amended to read as follows:

Sec. 5.020 Primary ~~[[municipal]]~~ elections; declaration of candidacy. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Councilmen must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Councilmen will seek to represent. A candidate for the office of City Councilman shall include in his declaration of candidacy the number of the ward which he seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he seeks to represent.

2. If for any general municipal election there are three or more candidates for the offices of Mayor or Municipal Judge, or for a particular City Council seat, a primary election for any such office must be held on the *twelfth* Tuesday ~~[[following the first Monday in April]]~~ preceding the general election. In the primary election:

(a) A candidate for the office of City Councilman must be voted upon only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary election, the names of the two candidates for Mayor, Municipal Judge and each City Council seat who receive the highest number of votes must be placed on the ballot for the general election.

4. If one of the candidates for Mayor, Municipal Judge or a City Council seat receives a majority of the total votes cast for that office in the primary election, he ~~shall~~ *must* be declared elected to office and his name must not appear on the ballot for the general election.

Sec. 27. Section 5.080 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 1985, at page 1440, is hereby amended to read as follows:

Sec. 5.080 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any special, primary or general municipal election ~~shall~~ *must* be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may be permitted to handle, inspect or in any manner interfere with the returns until canvassed by the City Council.

2. The City Council shall meet at any time within 16 days after any election and shall canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months, and no person may have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the ~~1st~~ *first* day of ~~July~~ *December* next following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 28. On or before February 1, 2012, the governing body of a city incorporated pursuant to general law in a county whose population is 400,000 or more shall adopt the ordinance required pursuant to the provisions of subsection 2 of NRS 293C.115, as amended by this act.

Sec. 29. 1. This section and sections 4, 7, 14, 16, 17, ~~18.5~~, 19, 23, 24 and 25 of this act become effective upon passage and approval.

2. Sections 1, 2, 3, 5, 6, 8 to 13, inclusive, 15, 18, 20, 21, 22, 26, 27 and 28 of this act become effective on January 1, 2012.

Senator Beers moved the adoption of the amendment.

Remarks by Senator Beers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 195.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 132.

"SUMMARY—Enacts provisions governing the operation and use of a recreation area. (BDR 40-492)"

"AN ACT relating to recreation areas; prohibiting a person who uses a recreation area from engaging in certain conduct; requiring such a person to follow certain safety requirements; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth prohibitions, penalties and duties for a person who operates or uses a skateboard park, amusement park or snow recreation area. (Chapters 455A and 455B of NRS) Generally those laws prohibit a person from engaging in certain activities at the park or snow recreation area, prescribe duties for the owner, operator or user of the park or area and specifically state that a county, city or unincorporated town may adopt additional ordinances governing the park or area as long as the ordinances do not conflict with existing statutes. (Chapters 455A and 455B of NRS)

This bill enacts similar prohibitions, penalties and duties for a person who operates or uses a recreation area. Section 4 of this bill defines "recreation area" as a ~~trail~~ trailhead or water access ~~facility~~ area. Section 8 of this bill prohibits certain conduct by a person using a recreation area. Section 9 of this bill imposes certain duties on a person using a recreation area, such as a duty to locate and ascertain the meaning of any sign that is posted by the operator of the recreation area. Section 10 of this bill absolves the operator of a recreation area and an owner of private property from liability for the death or injury of a person or for damage to property caused or sustained by a person using the recreation area if the person ~~knowingly~~ enters an area ~~which is not designated for use or~~ which is outside the recreation area. Section 10 also requires an operator to provide certain information about the recreation area at trailheads and water access areas. Section 11 of this bill prohibits a person from entering or using a recreation area while intoxicated or under the influence of a controlled substance. Section 12 of this bill imposes a misdemeanor penalty against a person who fails to comply with certain reporting requirements occurring upon the person's involvement in a collision or an accident with another person. Section 14 of this bill clarifies that the intent of the bill is not to preempt a county, city or unincorporated town from adopting additional ordinances which are consistent with this bill. Section 14 also specifies that the provisions of the bill are in addition to certain statutory and regulatory provisions relating to state parks and state recreational areas.

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

Section 1. Chapter 455B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. "Operator" means ~~fa person, including~~ a government, governmental agency or political subdivision of a government ~~f, who~~ that owns, controls, operates or manages a recreation area.

Sec. 4. "Recreation area" means a ~~trail~~ trailhead or water access area. The term does not include:

1. A snow recreation area as defined in NRS 455A.083; or
2. A skateboard park as defined in NRS 455B.240.

Sec. 5. ~~["Trail" means a path used for bicycling, cross-country skiing, walking, jogging, horseback riding or any similar use.] (Deleted by amendment.)~~

Sec. 6. "Trailhead" means the beginning point of a trail, including, without limitation, any facility for parking, water or sanitation that is available for use at that point.

Sec. 7. "Water access area" includes, without limitation, a beach, ~~marina, river access facility,~~ river entry or exit point and land located at or below the ordinary high water mark of a navigable body of water within this State.

Sec. 8. A person shall not:

1. Fail or refuse to comply with:
  - (a) Reasonable instructions provided by an operator or an authorized agent or employee of an operator regarding the use of a recreation area; or
  - (b) Rules concerning safety that are posted on a sign in a conspicuous place by an operator;
2. Intentionally place, drop or throw any object in the path of a user of a recreation area;
3. Conduct himself in a manner that interferes with the safe operation of a recreation area or with the safety of other users of a recreation area; or
4. Trespass on any private property located in or adjacent to a recreation area.

Sec. 9. 1. A person using a recreation area shall, to the extent possible:

- (a) Locate and ascertain:
  - (1) The meaning of any sign that is posted in or near the recreation area by the operator of the recreation area; and
  - (2) The boundaries of all private property adjoining the recreation area;
- (b) Heed warnings and other information posted by the operator of the recreation area;
- (c) Conduct himself in such a manner as to avoid injury to persons and damage to property in the recreation area;

(d) Familiarize himself with the natural conditions of the recreation area and any resulting dangerous conditions in the recreation area and any private property located in or adjacent to the recreation area; and

(e) Familiarize himself with any dangerous conditions relating to an irrigation system in or near the recreation area.

2. A person using a recreation area shall not tamper with or alter an irrigation system or any part of an irrigation system in the recreation area.

Sec. 10. 1. A person who enters a recreation area unlawfully shall be deemed to be a trespasser.

2. A person who sustains a personal injury while he is using a recreation area shall notify the operator or an authorized agent or employee of the operator of the injury as soon as reasonably possible.

3. ~~4.1.1~~ Except as otherwise provided by law, an operator or an owner of private property is not liable for the death or injury of a person or for damage to property caused or sustained by a person using a recreation area if the person knowingly enters an area which is not designated for use or which is located outside the recreation area.

4. An operator shall take reasonable steps to minimize dangers and conditions of trailheads and water access areas within his control.

5. An operator shall post signs in conspicuous places or provide other information at trailheads and water access areas that:

(a) Identify the boundaries of the recreation area and immediately adjacent private property;

(b) Prescribe rules concerning safety, conduct and use; and

(c) Provide warnings about dangerous conditions and potential hazards.

Sec. 11. 1. A person shall not enter or use a recreation area while intoxicated or under the influence of a controlled substance, unless in accordance with:

(a) A prescription lawfully issued to the person; or

(b) The provisions of chapter 453A of NRS.

2. An operator or an authorized agent or employee of an operator may prohibit a person from entering or using a recreation area if he reasonably believes that the person is under the influence of alcohol, prescription drugs or a controlled substance. An operator or an authorized agent or employee of an operator is not civilly or criminally liable for prohibiting a person from entering or using a recreation area pursuant to this subsection.

Sec. 12. 1. A person using a recreation area who is involved in a collision or an accident in which another person is injured shall provide his name and current address to the injured person and the operator or an authorized agent or employee of the operator:

(a) Before he leaves the vicinity of the collision or accident; or

(b) As soon as reasonably possible after leaving the vicinity of the collision or accident to secure aid for the injured person.

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



Sec. 13. *An operator may revoke the license or privilege of a person to use a recreation area if the person violates any provision of sections 2 to 14, inclusive, of this act.*

Sec. 14. *The provisions of sections 2 to 14, inclusive, of this act:*

1. *Do not prohibit a county, city or unincorporated town from adopting ordinances that regulate a recreation area which are consistent with the provisions of sections 2 to 14, inclusive, of this act.*

2. *Are in addition to any provision of chapter 407 of NRS or any regulation adopted pursuant to that chapter that is applicable to a recreation area.*

Sec. 15. This act becomes effective on July 1, 2007.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 217.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 204.

"SUMMARY—Revises the provisions governing deeds of trust and the sale of real property after default. (BDR 9-742)"

"AN ACT relating to property; revising the provisions governing deeds of trust and the sale of real property after default; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law contains certain requirements regarding deeds of trust and the sale of real property after default and provides that a sale may be declared void if the trustee or other person authorized to make the sale does not substantially comply with those requirements. (NRS 107.080) This bill provides that , except under certain circumstances, for a sale to be declared void, within ~~30~~ 90 days after the date of the sale, an action must be commenced in the county where the sale took place and, within ~~15~~ 30 days after commencing the action, notice of the action must be recorded in the office of the county recorder. This bill also provides that under certain circumstances where proper notice has not been provided to a person who is entitled to such notice, the person who did not receive proper notice has 120 days after the date of receiving actual notice of the sale to commence an action to declare the sale void.

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

Section 1. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a

power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property [ ] has , for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property [ ] has , for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by

registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A ~~person who purchases property pursuant to this section is not a bona fide purchaser, and the~~ sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if ~~the~~ :

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[-]~~ ;

(b) ~~Any~~ Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within ~~30~~ 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within ~~15~~ 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 316.

Bill read second time and ordered to third reading.

Senate Bill No. 361.

Bill read second time and ordered to third reading.

Senate Bill No. 389.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 311.

"SUMMARY—Makes various changes to provisions relating to public safety. (BDR 14-1348)"

"AN ACT relating to public safety; revising the provisions relating to fees that may be charged by the Central Repository for Nevada Records of Criminal History ~~\_; [for providing certain information; directing the Legislative Commission to conduct an interim study concerning background investigations of persons and records of criminal history;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the Central Repository for Nevada Records of Criminal History shall not charge a fee for certain information. (NRS 179A.140) Section 1 of this bill ~~[allows]~~ *prohibits* the Central Repository ~~[to charge]~~ *from charging* a fee for information ~~[contained in a record of registration concerning an employee or prospective employee who is a sex offender or an offender convicted of a crime against a child requested by and provided to a nonprofit organization, but continues to prohibit the Central Repository from charging a fee for such information concerning a volunteer or prospective volunteer who will work directly with children and who is a sex offender or an offender convicted of a crime against a child.~~

~~Section 2 of this bill requires the Legislative Commission to conduct an interim study of background investigations of persons and records of criminal history.]~~ *provided to any organization that meets the criteria established by regulation pursuant to paragraph (b) of subsection 5 of NRS 179A.310.*

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

Section 1. NRS 179A.140 is hereby amended to read as follows:

179A.140 1. Except as otherwise provided in this section, an agency of criminal justice may charge a reasonable fee for information relating to records of criminal history provided to any person or governmental entity.

2. An agency of criminal justice shall not charge a fee for providing such information to another agency of criminal justice if the information is provided for purposes of the administration of criminal justice, or for providing such information to the State Disaster Identification Team of the Division of Emergency Management of the Department.

3. The Central Repository shall not charge such a fee:

(a) For information relating to a person regarding whom the Central Repository provided a similar report within the immediately preceding 6 months in conjunction with the application by that person for professional licensure; or

(b) For information ~~[contained in a record of registration concerning]~~ ~~[an employee, prospective employee,]~~ ~~a volunteer or prospective volunteer who will work directly with children and who is a sex offender or an offender convicted of a crime against a child or records of criminal history requested by and provided to a nonprofit organization that is recognized as exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).]~~ provided to any organization that meets the criteria established by regulation pursuant to paragraph (b) of subsection 5 of NRS 179A.310.

4. The Director may request an allocation from the Contingency Fund pursuant to NRS 353.266, 353.268 and 353.269 to cover the costs incurred by the Department to carry out the provisions of paragraph (b) of subsection 3.

5. All money received or collected by the Department pursuant to this section must be used to defray the cost of operating the Central Repository.

Sec. 2. ~~[1. The Legislative Commission shall appoint a subcommittee of six legislators to conduct an interim study of background investigations of persons and records of criminal history, including, without limitation, the Central Repository for Nevada Records of Criminal History and the statewide registry of sex offenders and offenders convicted of a crime against a child established within the Central Repository pursuant to NRS 179B.200. The subcommittee must consist of:~~

- ~~(a) The Chair of the Senate Standing Committee on Judiciary;~~
- ~~(b) The Chair of the Assembly Standing Committee on Judiciary;~~
- ~~(c) Two members of the Senate appointed by the Majority Leader of the Senate; and~~
- ~~(d) Two members of the Assembly appointed by the Speaker of the Assembly.~~

~~2. The subcommittee shall appoint an advisory committee to assist the subcommittee in carrying out its duties. The advisory committee must consist of:~~

- ~~(a) The Director of the Department of Corrections or his designee;~~
- ~~(b) The Director of the Department of Public Safety or his designee;~~
- ~~(c) The chief officer, other than the Director of the Department of Public Safety, who administers the Central Repository for Nevada Records of Criminal History;~~
- ~~(d) The Chief Parole and Probation Officer;~~
- ~~(e) One district attorney from Clark County, one district attorney from Washoe County and one district attorney from a county other than Clark County or Washoe County; and~~
- ~~(f) One public defender from Clark County, one public defender from Washoe County and one public defender from a county other than Clark County or Washoe County.] (Deleted by amendment.)~~

Sec. 3. This act becomes effective ~~for July 1, 2007.]~~ upon passage and approval.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 420.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 265.

"SUMMARY—Makes various changes to provisions relating to property.  
(BDR 13-1305)"

"AN ACT relating to property; revising the provisions relating to the transfer of supervision of trusts; revising the provisions relating to spendthrift trusts; increasing the civil liability for conversion of property before letters of administration are granted; revising the provisions relating to succession of property under certain circumstances; revising the provisions relating to the summary administration of estates and the distribution of certain estates; revising the provisions relating to a petition concerning the affairs of a trust; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a court may, with the concurrence of the beneficiary, transfer supervision of a trust to another jurisdiction upon petition by any person appointed by the court or a trustee. (NRS 164.130) Section 1 of this bill provides that a trustee or beneficiary may petition the court for a transfer of supervision, without the concurrence of the beneficiary.

Existing law establishes certain limitations of actions involving transfer of property to a spendthrift trust. (NRS 166.170) Section 3 of this bill provides that a person is deemed to have discovered a transfer at the time a public record is made of the transfer for the purpose of setting the statute of limitations for certain legal actions that may arise after the transfer.

Existing law provides that property held in a spendthrift trust for a judgment debtor or any other beneficiary is not liable to execution if the trust was not created by the beneficiary and the fund so held in trust has not proceeded from the beneficiary. (NRS 21.080) Section 4 of this bill provides that property held in a spendthrift trust which proceeded from a beneficiary is not liable to execution if the beneficiary is the settlor of the trust and the trust is a spendthrift trust that was created in compliance with applicable law.

Existing law provides for the distribution of an estate by right of representation to the children of any deceased brother or sister if there is no issue, surviving spouse or father or mother. (NRS 134.060) Section 7 of this bill provides for such succession by the children of any deceased brother or sister in equal shares, per capita.

Section 8 of this bill increases the liability for the conversion, taking or alienation of property by a person before the granting of letters of

administration from double the value of the property converted, taken or alienated to triple the value. (NRS 143.100)

Existing law allows a court to order summary administration of an estate if the gross value of the estate does not exceed \$200,000 and requires the personal representative of an estate to petition the court for an order revoking summary administration if the gross value of the estate exceeds \$200,000 after an order for summary administration is made. (NRS 145.040, 145.110) Sections 9 and 10 of this bill provide that the threshold amount of \$200,000 for either summary administration of an estate or a revocation of summary administration must be determined after deducting any encumbrances.

Existing law sets forth the manner in which a court may order the distribution of small estates not exceeding \$75,000. (NRS 146.070) Section 11 of this bill increases the amount from \$75,000 to \$100,000.

Existing law sets forth certain aspects of the affairs of a trust regarding which a trustee or beneficiary may petition the court. (NRS 153.031) Section 12 of this bill provides that a trustee or beneficiary may also petition the court to compel compliance with the terms of the trust or other applicable law. Section 12 further provides that the court may, in addition to any other relief granted by the court, reduce the trustee's compensation and order the trustee to pay to the beneficiary all reasonable costs and attorney's fees incurred as a result of preparing a petition.

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

Section 1. NRS 164.130 is hereby amended to read as follows:

164.130 Upon petition by any ~~person appointed by the court or otherwise as trustee, with the concurrence of the beneficiary or beneficiaries,~~ *trustee or beneficiary*, a court having jurisdiction of a trust may transfer supervision of the trust to any ~~judicial~~ district *court* within the State, or to any court outside Nevada which accepts jurisdiction over the trust, when the convenience of beneficiaries, trustees, attorneys or other interested persons makes a transfer desirable.

Sec. 2. NRS 166.040 is hereby amended to read as follows:

166.040 1. Any person competent by law to execute a will or deed may, by writing only, duly executed, by will, conveyance or other writing, create a spendthrift trust in real, personal or mixed property for the benefit of:

- (a) A person other than the settlor;
- (b) The settlor if the writing is irrevocable, does not require that any part of the income or principal of the trust be distributed to the settlor, and was not intended to hinder, delay or defraud known creditors; or
- (c) Both the settlor and another person if the writing meets the requirements of paragraph (b).

2. For the purposes of this section, a writing:

- (a) Is "irrevocable" even if the settlor may prevent a distribution from the trust or holds a testamentary special power of appointment or similar power.

(b) Does not "require" a distribution to the settlor if *the trust instrument provides that* he may receive it only in the discretion of another person.

Sec. 3. NRS 166.170 is hereby amended to read as follows:

166.170 1. A person may not bring an action with respect to a transfer of property to a spendthrift trust:

~~1.~~ (a) If he is a creditor when the transfer is made, unless the action is commenced within:

~~(a)~~ (1) Two years after the transfer is made; or

~~(b)~~ (2) Six months after he discovers or reasonably should have discovered the transfer,

↳ whichever is later.

~~2.~~ (b) If he becomes a creditor after the transfer is made, unless the action is commenced within 2 years after the transfer is made.

~~3.~~ 2. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the conveyance of real property that is recorded in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.

~~4.~~ 3. As used in this section, "creditor" has the meaning ascribed to it in subsection 4 of NRS 112.150.

Sec. 4. NRS 21.080 is hereby amended to read as follows:

21.080 1. All goods, chattels, ~~moneys~~ money and other property, real and personal, of the judgment debtor, or any interest therein of the judgment debtor not exempt by law, and all property and rights of property seized and held under attachment in the action, ~~shall be~~ are liable to execution. Subject to the provisions of chapter 104 of NRS, shares and interests in any corporation or company, and debts and credits and other property not capable of manual delivery, may be attached in execution in like manner as upon writs of attachments. Gold dust and bullion ~~shall~~ must be returned by the officer as so much money collected, at its current value, without exposing the same to sale. Until a levy, property ~~shall~~ is not ~~be~~ affected by the execution.

2. This chapter does not authorize the seizure of, or other interference with, any money, thing in action, lands or other property held in spendthrift trust for a judgment debtor, or held in such trust for any beneficiary, pursuant to any judgment, order or process of any bankruptcy or other court directed against any such beneficiary or his trustee. ~~[, where the trust has been created by, or]~~ This subsection does not apply to the interest of the beneficiary of a trust where the fund so held in trust has proceeded from ~~[any person other than the judgment debtor or beneficiary himself.]~~ the beneficiary unless:

(a) The beneficiary is the settlor of the trust; and

(b) The trust is a spendthrift trust that was created in compliance with the provisions of chapter 166 of NRS.



Sec. 5. Chapter 132 of NRS is hereby amended by adding thereto a new section to read as follows:

*"District court" or "court" means a district court of this State sitting in probate or otherwise adjudicating matters pursuant to this title.*

Sec. 6. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, *and section 5 of this act* have the meanings ascribed to them in those sections.

Sec. 7. NRS 134.060 is hereby amended to read as follows:

134.060 If there is no issue, surviving spouse, or father or mother, then the estate goes in equal shares to the brothers and sisters of the decedent and to the children of any deceased brother or sister ~~[by right of representation.]~~ *in equal shares, per capita.*

Sec. 8. NRS 143.100 is hereby amended to read as follows:

143.100 If any person, before the granting of letters, converts, takes or alienates any of the money, goods, chattels or effects of a decedent, that person is chargeable and liable to an action by the personal representative for ~~[double]~~ *triple* the value of the property so converted, taken or alienated, to be recovered for the benefit of the estate.

Sec. 9. NRS 145.040 is hereby amended to read as follows:

145.040 If it is made to appear to the court that the gross value of the estate, *after deducting any encumbrances*, does not exceed \$200,000, the court may, if deemed advisable considering the nature, character and obligations of the estate, enter an order for a summary administration of the estate.

Sec. 10. NRS 145.110 is hereby amended to read as follows:

145.110 If at any time after the entry of an order for the summary administration of an estate it appears that the gross value of the estate, *after deducting any encumbrances*, exceeds \$200,000 as of the death of the decedent, the personal representative shall petition the court for an order revoking summary administration. The court may, if deemed advisable considering the nature, character and obligations of the estate, provide in its order revoking summary administration that regular administration of the estate may proceed unabated upon providing such portions of the regular proceedings and notices as were dispensed with by the order for summary administration.

Sec. 11. NRS 146.070 is hereby amended to read as follows:

146.070 1. If a person dies leaving an estate the gross value of which, after deducting any encumbrances, does not exceed ~~[\$75,000,]~~ *\$100,000*, and there is a surviving spouse or minor child or minor children of the decedent, the estate must not be administered upon, but the whole estate, after directing such payments as may be deemed just, must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or minor child or minor children, or for the support of the minor child or minor children, if there is no surviving spouse. Even if there is a surviving spouse, the court

may, after directing such payments, set aside the whole of the estate to the minor child or minor children, if it is in their best interests.

2. If there is no surviving spouse or minor child of the decedent and the gross value of a decedent's estate, after deducting any encumbrances, does not exceed ~~[\$75,000,]~~ \$100,000, upon good cause shown, the court shall order that the estate not be administered upon, but the whole estate be assigned and set apart in the following order:

(a) To the payment of funeral expenses, expenses of last illness, money owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid and creditors, if there are any; and

(b) Any balance remaining to the claimant or claimants entitled thereto pursuant to a valid will of the decedent, and if there is no valid will, pursuant to intestate succession.

3. Proceedings taken under this section, whether or not the decedent left a valid will, must not begin until at least 30 days after the death of the decedent and must be originated by a petition containing:

(a) A specific description of all the decedent's property.

(b) A list of all the liens and mortgages of record at the date of the decedent's death.

(c) An estimate of the value of the property.

(d) A statement of the debts of the decedent so far as known to the petitioner.

(e) The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of the heirs and devisees to the decedent, so far as known to the petitioner.

4. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition and hearing in the manner provided in NRS 155.010 to the decedent's heirs and devisees and to the Director of the Department of Health and Human Services. If a complete copy of the petition is not enclosed with the notice, the notice must include a statement setting forth to whom the estate is being set aside.

5. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding \$2,500 in value.

6. If the court finds that the gross value of the estate, less encumbrances, does not exceed the sum of ~~[\$75,000,]~~ \$100,000, the court may direct that the estate be distributed to the father or mother of a minor heir or devisee, with or without the filing of any bond, or to a custodian under chapter 167 of NRS, or may require that a general guardian be appointed and that the estate be distributed to the guardian, with or without bond, as in the discretion of the court is deemed to be in the best interests of the minor. The court may direct the manner in which the money may be used for the benefit of the minor.

Sec. 12. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;
- (g) Instructing the trustee;
- (h) Compelling the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of his compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts; ~~and~~
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust ~~[-]~~; *and*
- (q) *Compelling compliance with the terms of the trust or other applicable law.*

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. *If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:*

- (a) *Order a reduction in the trustee's compensation.*
- (b) *Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. The trustee may not be held personally liable for the payment of such*

*costs unless the court determines that the trustee was negligent in the performance of or breached his fiduciary duties.*

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 486.

Bill read second time and ordered to third reading.

Senate Bill No. 500.

Bill read second time and ordered to third reading.

Senate Bill No. 504.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 15.

Resolution read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 261.

"SUMMARY—Urges the President and Congress to continue to support the participation of the Republic of China on Taiwan in the World Health Organization. (BDR R-1358)"

"SENATE JOINT RESOLUTION—Urging the President and Congress to continue to support the participation of the Republic of China on Taiwan in the World Health Organization."

WHEREAS, In the first chapter of its charter, the World Health Organization set forth the objective of attaining the highest possible level of health for all people, and participation in international health programs is crucial as the potential for the spread of infectious diseases increases proportionately with increases in world trade, travel and population; and

WHEREAS, Taiwan's population of over 23 million is larger than three fourths of the member countries who currently participate in the World Health Organization; and

WHEREAS, The achievements of Taiwan in the field of health are substantial and include one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox and the plague, and the distinction of being the first country in the world to provide children with free hepatitis B vaccinations; and

WHEREAS, Before its loss of membership in the World Health Organization in 1972, Taiwan sent specialists to serve in other member countries on countless health projects and its health experts held key positions in the organization, all to the benefit of the entire Pacific region; and

WHEREAS, Presently, this remarkable country is not allowed to participate in any forums or workshops organized by the World Health Organization concerning the latest technologies in the diagnosis, monitoring and control of disease; and

WHEREAS, In recent years, the government and the expert scientists and doctors of Taiwan have expressed a willingness to assist financially and technically in international aid and health activities supported by the World Health Organization, but these offers have been refused; and

WHEREAS, Admittance of Taiwan to the World Health Organization would bring tremendous benefits to all persons in this world; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the Nevada Legislature hereby urge President George W. Bush and the Congress of the United States to continue to support all efforts made by the Republic of China on Taiwan to gain meaningful participation in the World Health Organization; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, the Secretary of Health and Human Services, ~~the World Health Organization,~~ the Director General of the Taipei Economic and Cultural Office in San Francisco, the Executive Director of the Las Vegas Taiwanese Chamber of Commerce and the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 16.

Resolution read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 260.

"SUMMARY—Urges the President and Congress to support a free trade agreement between the Republic of China on Taiwan and the United States. (BDR R-1340)"

"SENATE JOINT RESOLUTION—Urging the President and Congress to support a free trade agreement between the Republic of China on Taiwan and the United States."

WHEREAS, It is our belief that it is this country's responsibility to promote the values of freedom and democracy, a commitment to open markets and the free exchange of goods and ideas both at home and abroad, and the Republic of China on Taiwan shares these values and has struggled

throughout the past 50 years to create what is an open and thriving democracy; and

WHEREAS, Despite the fact that Taiwan is a member of the World Trade Organization, it has no formal trade agreement with the United States, yet Taiwan has emerged as the United States' eighth largest trading partner, the United States is Taiwan's largest trading partner and American businesses have benefited greatly from this dynamic trade relationship; and

WHEREAS, Taiwan has emerged over the past two decades as one of the United States' most important allies in Asia and throughout the world; and

WHEREAS, Taiwan has forged an open, market-based economy and a thriving democracy based on free elections and the freedom of dissent, and it is in the interest of the United States to encourage the development of both these institutions; and

WHEREAS, The United States has an obligation to its allies and to its own citizens to encourage economic growth, market opening and the destruction of trade barriers as a means of raising living standards across the board; and

WHEREAS, A free trade agreement with Taiwan would be a positive step toward accomplishing all of these goals; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the Nevada Legislature hereby urge President George W. Bush and Congress to support a free trade agreement between the United States and Taiwan; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as presiding officer of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, the Director General of the Taipei Economic and Cultural Office in San Francisco, *the Executive Director of the Las Vegas Taiwanese Chamber of Commerce* and the members of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bills Nos. 6, 7, 32, 117, 202, 294, 519; Senate Joint Resolution No. 4 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

In compliance with a notice given on the previous day, Senator Titus moved that the vote whereby Senate Joint Resolution No. 2 was passed be reconsidered.

Remarks by Senators Titus and Raggio.

Motion failed.

Senate Joint Resolution No. 2 ordered transmitted to the Assembly.

UNFINISHED BUSINESS  
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Assembly Bill No. 555.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Beers, the privilege of the floor of the Senate Chamber for this day was extended to Diane Fruth and Bob Anderson.

On request of Senator Care, the privilege of the floor of the Senate Chamber for this day was extended to Trey Vergiels and Zachary Vergiels.

On request of Senator Carlton, the privilege of the floor of the Senate Chamber for this day was extended to former Assemblyman Jim Spinello and Bonnie Schuff.

On request of Senator Cegavske, the privilege of the floor of the Senate Chamber for this day was extended to Ryan McHugh and Jack McHugh.

On request of Senator Coffin, the privilege of the floor of the Senate Chamber for this day was extended to Robert Vergiels and Salan Vergiels.

On request of Senator Horsford, the privilege of the floor of the Senate Chamber for this day was extended to Kelly Arndt, Jim Marchesi and Joan Wilhelm.

On request of Senator Lee, the privilege of the floor of the Senate Chamber for this day was extended to Roger Trounday, Gail Trounday, Giles Altenburg and Nancy Piedmonte.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teachers from the Robert Mitchell Elementary School: Monica Baldwin, Joey Castillo-Meza, Elba Centeno, Celeste Cortes, John'ne Craig, Joseph Dominguez, Antonio Garcia, Rachel Goodwin, Thomas Guerrero-Bonilla, Ruben Pacheco, Edgar Parra Sambrano, Parsh Patel, Michelle Quintero, Phoenix Robinson, Dillon Cattnach, Tony Martinez-Vincent, Cameron Stewart, Jareth Trottot, Ericka Thrasher, Daniel Sandoval, Beatriz Adame, Rafael Cerrillo, Sandy Espino, Devon Fox Rhyner, Gregorio Garcia Luna, Danny Gomez, Ashley Goodale, Adilene Hernandez Reyes, Dalisha Kindle, Chase Kynast, J'quan Lee, Dustin Lemons, Edgar Leon, Vanessa Orellana, Dayanna Parra Sambrano, Eddy Pichardo, Armando Reyes, Jasmine Scott,

Jeremy Soriano, Ashley Walker, Bob Wing, Jonathan Lomeli; chaperones: Nick Metcalf, Chris Robinson; teachers: Vicki Morandi and Marnie Smith.

On request of Senator McGinness, the privilege of the floor of the Senate Chamber for this day was extended to Tom McHugh and Jayne McHugh.

On request of Senator Nolan, the privilege of the floor of the Senate Chamber for this day was extended to Jim Aiazzi and Cherie Aiazzi.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Sally McHugh.

On request of Senator Titus, the privilege of the floor of the Senate Chamber for this day was extended to former Senator Jack Vergiels, Halina Vergiels, Dr. Ron.Schockley, Elizabeth Hanrahan and Gabriella Hanrahan.

On request of Senator Townsend, the privilege of the floor of the Senate Chamber for this day was extended to former Senator Coe Swobe.

On request of Senator Wiener, the privilege of the floor of the Senate Chamber for this day was extended to Jack Vergiels, Annabelle Vergiels, McKenna Barios-Beckwith and Olivia Vergiels.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to Joan Wilhelm, Patsy Beesley and Shannon Beesley.

Senator Raggio moved that the Senate adjourn until Wednesday, April 18, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 1:05 p.m.

Approved:

MARK E. AMODEI  
*President pro Tempore of the Senate*

Attest: CLAIRE J. CLIFT  
*Secretary of the Senate*