

THE ONE HUNDRED AND FIRST DAY

CARSON CITY (Wednesday), May 16, 2007

Senate called to order at 11:26 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Dixie Jennings-Teats.

Coming into this unique time and place, I ask you to take a minute and actually stop. Stop the very important work you are doing. Stop any worry, any anxiety, and difficulties. For a moment, step away from dividing lines among us. In this moment, as we come to a place of unity, stop and come to a moment of peace. Let us pray.

O most merciful One, we come into Your presence with thanksgiving, into Your presence with praise. Give us new eyes, that we may see Your presence with us, new ears that we may hear Your undercurrents of love and hope in our work, in our lives and new hands and bodies that might be filled with movements of Your Holy Spirit during this Session. Help us learn to trust in Your abiding grace as we remember all Your people and work for all Your loved ones.

In hope and trust, we pray,

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 1, 7, 103, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RANDOLPH J. TOWNSEND, *Chair**Mr. President:*

Your Committee on Finance, to which was rereferred Senate Bill No. 38, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair**Mr. President:*

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 122, 138, 258, 301, 326, 350, 415, 533, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WARREN B. HARDY II, *Chair**Mr. President:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 49, 94, 190, 298, 483, 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:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 516, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BARBARA K. CEGAVSKE, *Chair*

Mr. President:

Your Committee on Natural Resources, to which was referred Assembly Joint Resolution No. 9, 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:

Your Committee on Taxation, to which was referred Assembly Bill No. 585, 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:

Your Committee on Transportation and Homeland Security, to which were referred Assembly Bills Nos. 76, 289, 297, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 15, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 17, 39, 60, 175, 230, 559; Assembly Bills Nos. 200, 272.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 273, 328, 485.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 115, Amendment No. 696; Senate Bill No. 154, Amendment No. 719, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 679 to Assembly Bill No. 2; Senate Amendment No. 664 to Assembly Bill No. 299; Senate Amendment No. 677 to Assembly Bill No. 303.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

May 16, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bill No. 554.

GARY Ghiggeri

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 17.

Resolution read.

Senator Cegavske moved the adoption of the resolution as amended.

Remarks by Senator Cegavske.

Resolution adopted as amended.

Resolution ordered transmitted to the Assembly.

By Senators Horsford, Washington, Amodei, Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Lee, Mathews, McGinness, Nolan, Raggio, Rhoads, Schneider, Titus, Townsend, Wiener, Woodhouse; Assemblymen Parks, Allen, Anderson, Arberry, Atkinson, Beers, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Gansert, Gerhardt, Goedhart, Goicoechea, Grady, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Mabey, Manendo, Marvel, McClain, Mortenson, Munford, Ocegüera, Ohrenschall, Parnell, Pierce, Segerblom, Settlemeyer, Smith, Stewart, Weber and Womack:

Senate Concurrent Resolution No. 44—Recognizing December 1, 2007, as World AIDS Day.

WHEREAS, Acquired Immunodeficiency Syndrome, AIDS, is perhaps the most serious public health problem of our time; and

WHEREAS, Approximately 39.5 million people in the world are infected with the Human Immunodeficiency Virus (HIV), the virus that causes AIDS, over 25 million people have been lost to AIDS so far, and, in 2006, 4.3 million people have become infected with AIDS, more than in any previous year; and

WHEREAS, Started in 1988 by the Joint United Nations Programme on HIV/AIDS, World AIDS Day, now coordinated by The World AIDS Campaign, is not just about raising money to help the fight against AIDS, but also about increasing awareness, fighting prejudice and improving education; and

WHEREAS, World AIDS Day is a day to appreciate, understand and acknowledge the danger that AIDS poses to humanity and the extent to which it has spread all over the world; and

WHEREAS, The ongoing slogan for World AIDS Day is "Stop AIDS. Keep the Promise."; and

WHEREAS, This year's theme is "Leadership," not just leadership within government, but in families, communities and countries, both locally and internationally; and

WHEREAS, In Nevada, according to the Bureau of Community Health of the Health Division of the Department of Health and Human Services, in 2003, Nevada ranked 18th in the nation for the annual AIDS case rate and 20th in the nation for the number of new HIV cases; and

WHEREAS, It is important for the future health of the residents of the State of Nevada, and for people all over the world, to continue to fight against this disease; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 74th Session of the Nevada Legislature hereby recognize December 1, 2007, as World AIDS Day in Nevada; and be it further

RESOLVED, That the residents of Nevada are encouraged to participate in this event, as a show of solidarity, support and sympathy for the many victims of AIDS locally and worldwide; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Deborah McBride, Chief of the Bureau of Community Health of the Health Division of the Department of Health and Human Services, Caroline Ciocca, Executive Director of Aid for AIDS of Nevada, and Lori Smith-Ingberg, Executive Director of the Nevada AIDS Foundation.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

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

Thank you, Mr. President. As we know, every December 1 marks the recognition of World AIDS Day and as the Secretary of the Senate has read in the resolution, this virus affects 25 million people each year with more and more being infected with this devastating illness each year.

I would like to thank the Leadership of this House and the Assembly for allowing this resolution to be heard today. This resolution will help to bring attention to the issue, which is incredibly important, regarding awareness, education and prevention.

In April, Las Vegas had an AIDS Walk that helped to raise money and awareness for this issue. The walk was sponsored by "Aid for AIDS of Nevada (AFAN)," an organization that provides support and advocacy for adults and children living with or affected by Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS) in southern Nevada. AFAN conducts this annual walk and raised \$508,000 this year with 85 percent of the money going towards programs that will include housing, education and services for clients. Issues vary including dealing with bus passes, meal vouchers and housing assistance. This organization serves over 26,000 individuals annually in southern Nevada alone. This is the type of organization that we need to support, an organization that brings attention, services and support to those who are infected and affected by HIV and AIDS.

Importantly, this resolution is Nevada's part in helping to address this issue across the world.

Resolution adopted.

Senator Horsford moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 44 be immediately transmitted to the Assembly.

Motion carried unanimously.

Resolution ordered transmitted to the Assembly.

By Senator Hardy:

Senate Concurrent Resolution No. 45—Directing the Legislative Commission to conduct an interim study concerning growth control measures.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 200.

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

Motion carried.

Assembly Bill No. 272.

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

Motion carried.

Assembly Bill No. 273.

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

Motion carried.

Assembly Bill No. 328.

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

Motion carried.

Assembly Bill No. 485.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 161.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 722.

"SUMMARY—~~Revises the requirements for the inspection of motor vehicles for the control of emissions.~~ *Exempts hybrid electric vehicles, for a certain period, from the program for the control of emissions from motor vehicles.* (BDR 40-252)"

"AN ACT relating to air pollution; ~~providing for additional exemptions from the requirements for the inspection of motor vehicles for the control of emissions;~~ *exempting hybrid electric vehicles from the program for the control of emissions from motor vehicles until the model year of the vehicle is 6 years old;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Environmental Commission and the Department of Motor Vehicles must conduct a program for the control of emissions from motor vehicles in designated areas of a county whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 445B.770; NAC 445B.593, 445B.594) In those areas, a motor vehicle which has been registered for not less than 2 years may not be registered without evidence that the vehicle: (1) is equipped with the pollution control devices required by state and federal law; and (2) has passed an inspection to ensure that the devices are operating properly. *(NRS 445B.800, 445B.815) Existing law further authorizes the Commission to exempt designated classes of motor vehicles from the program for the control of emissions. (NRS 445B.825) This bill exempts hybrid electric vehicles that are 5 years old or less from the emissions program.*

~~Sections 1 and 2 of this bill increase from 2 years to 3 years the period during which a motor vehicle may be registered without the submission of evidence that it complies with those requirements. Section 2 also provides that a hybrid electric vehicle may be registered without the submission of evidence that it complies with those requirements.~~

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

Section 1. [NRS 445B.758 is hereby amended to read as follows:

445B.758 "Used motor vehicle" means a motor vehicle that has been registered for not less than ~~2~~ 3 years with:

1. The Department of Motor Vehicles;

2. The appropriate agency of any other state, the District of Columbia, any territory or possession of the United States, any foreign country or any state or province of a foreign country; or

3. Any combination of the agencies described in subsections 1 and 2.]
(Deleted by amendment.)

Sec. 2. NRS 445B.825 is hereby amended to read as follows:

445B.825 1. The Commission may provide for exemption from the provisions of NRS 445B.770 to 445B.815, inclusive, of designated classes of motor vehicles, including , *without limitation*, classes based upon the year of manufacture of motor vehicles.

2. [The Commission shall provide for exemption from the provisions of NRS 445B.770 to 445B.815, inclusive, of:

(a) A motor vehicle that has been registered for not less than 3 years; and

~~(b)~~ A hybrid electric vehicle , as defined in 40 C.F.R. § 86.1702-99 ~~††~~, is exempt from the provisions of NRS 445B.770 to 445B.815, inclusive, until the model year of the vehicle is 6 years old.

3. The Commission shall provide for a waiver from the provisions of NRS 445B.770 to 445B.815, inclusive, if compliance involves repair and equipment costs which exceed the limits established by the Commission. The Commission shall establish the limits in a manner which avoids unnecessary financial hardship to motor vehicle owners.

Sec. 3. [This act becomes effective on July 1, 2007.] *(Deleted by amendment.)*

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 251.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 721.

"SUMMARY—Makes appropriations to the State Department of Conservation and Natural Resources for the Division of Water Resources, Division of Forestry, Forestry Conservation Camps and Division of State Parks. (BDR S-1221)"

"AN ACT making appropriations to the State Department of Conservation and Natural Resources for replacement vehicles and computer hardware and software and to restore the balance in the Channel Clearance Account; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the:

1. Division of Water Resources of the State Department of Conservation and Natural Resources the sum of ~~[\$333,164]~~ \$82,539 for *three* replacement trucks and computer hardware, and \$250,000 to restore the balance in the Channel Clearance Account ~~[as established in NRS 532.220 and 532.230.]~~

2. Division of Forestry of the Department the sum of ~~[\$919,517]~~ \$887,623 for the replacement of computer hardware and software and 22 vehicles that are old or in poor condition.

3. Department for Forestry Conservation Camps the sum of ~~[\$750,574]~~ \$731,271 for the replacement of computer hardware and software, and to purchase 15 new pick-up trucks and mechanic service trucks.

4. Division of State Parks of the Department the sum of ~~[\$1,754,464]~~ \$1,802,636 for the replacement of AutoCAD stations, personal computers and software, and 61 vehicles that are inoperable or in poor condition, and the purchase of Geographic Information System *hardware and* software.

Sec. 2. Any remaining balance of the appropriations made by section 1 of this act except the \$250,000 appropriated to restore the balance in the Channel Clearance Account must not be committed for expenditure after June 30, 2009, by the entity to which the appropriations are made or any entity to which money from the appropriations is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 13.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved that Assembly Bill No. 573 be taken from the Second Reading File and placed on the Secretary's desk.

Remarks by Senator Hardy.

Motion carried.

Senator Heck moved that Assembly Bill No. 90 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Heck.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 55.

Bill read second time.

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

Amendment No. 563.

"SUMMARY—Makes various changes concerning court reporters. (BDR 54-765)"

"AN ACT relating to court reporting; expanding the definition of "practice of court reporting" to include reporting by the use of voice writing; expanding the definition of "stenographic notes" to include certain records produced by voice writing; revising the circumstances under which a person may be admitted for examination in this State for a certified court reporter's certificate; establishing designations for certain court reporters; authorizing the use of certain abbreviations by certain court reporters; prohibiting certified court reporters-voice writers from practicing court reporting by using any method of court reporting other than voice writing; requiring an official reporter to make a record of certain proceedings; ~~exempting certain persons who operate sound recording equipment or transcribe sound recordings from the requirement to be a certified court reporter;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the certification of court reporters. (Chapter 656 of NRS) Section 1 of this bill expands the definition of "practice of court reporting" to include the making of a verbatim record of a court proceeding by speaking into a device that either digitally translates the words into text or makes a tape or digital recording of the words. Section 1 also expands the definition of "stenographic notes" to include such a record. Existing law requires applicants for certification as court reporters to have fulfilled one of a number of specified obligations before being permitted to take the certification test. (NRS 656.170) Section 2 of this bill allows a person to take the certification test if the person has passed an examination administered by the National Verbatim Reporters Association or the National Court Reporters Association or has received a certificate from either association, and the examination or certificate has been approved by the Certified Court Reporters' Board of Nevada.

Current law requires a person who has been issued a certificate of registration as a certified court reporter to be designated a "certified court reporter" and authorizes such a person to use the abbreviation "C.C.R." in connection with the practice of court reporting. (NRS 656.310) Section 3 of this bill provides that a person who only used voice writing technology to pass the court reporter test be designated a "certified court reporter-voice writer," and that such a person may use the abbreviation "C.C.R.-V.," may not use the abbreviation "C.C.R.," and may only use voice writing in the practice of court reporting.

~~f Existing law authorizes a court or judge to appoint or designate certain persons to operate sound recording equipment used to record certain civil and criminal proceedings and certain persons to read and transcribe the recording.~~

~~(NRS 3.380) Section 5 of this bill provides that each such person appointed or designated to operate sound recording equipment or to transcribe a recording is not required to be a certified court reporter.~~

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

Section 1. NRS 656.030 is hereby amended to read as follows:

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

1. "Board" means the Certified Court Reporters' Board of Nevada.
2. "Certificate" means a certified court reporter's certificate issued under the provisions of this chapter.
3. ~~["Court"]~~ "Certified court reporter" or "court reporter" means a person who is technically qualified and registered under this chapter to practice court reporting.
4. "Court reporting firm" means a person who, for compensation, provides or arranges for the services of a court reporter or provides referral services for court reporters.
5. "Designated representative of a court reporting firm" means the person designated to act as the representative of a court reporting firm pursuant to NRS 656.186.
6. "License" means a license issued under the provisions of this chapter to conduct business as a court reporting firm.
7. "Licensee" means a person to whom a license has been issued.
8. "Practice of court reporting" means reporting by the use of *voice writing* or any system of manual or mechanical shorthand writing:
 - (a) Grand jury proceedings;
 - (b) Court proceedings;
 - (c) Pretrial examinations, depositions, motions and related proceedings of like character; or
 - (d) Proceedings of an administrative agency if the final decision of the agency with reference thereto is subject to judicial review.
9. "Stenographic notes" means ~~the~~:
 - (a) The original manually or mechanically produced notes in shorthand or shorthand writing taken by a court reporter while in attendance at a proceeding to report the proceeding ~~[-]~~; or
 - (b) The record produced by the use of voice writing by a court reporter while in attendance at a proceeding.
10. "Voice writing" means the making of a verbatim record of a proceeding by repeating the words of the speaker into a device that is capable of:
 - (a) Digitally translating the words into text; or
 - (b) Making a tape or digital recording of those words.

Sec. 2. NRS 656.170 is hereby amended to read as follows:

- 656.170 1. Examinations must be held no less than twice a year at such times and places as the Board may designate.

2. No person may be admitted to the examination unless he first presents satisfactory evidence to the Board that he has:

(a) Received a passing grade on the National Court Reporters Association's examination for registered professional reporters ~~{;}~~, *if the Board has approved the examination;*

(b) *Received a passing grade on the National Verbatim Reporters Association's examination for certified verbatim reporters, if the Board has approved the examination;*

(c) A certificate of satisfactory completion of a prescribed course of study from a school for court reporters which includes English grammar, reading, spelling and vocabulary, medical and legal terminology, transcription, and court reporting at 200 words per minute with an accuracy of 97.5 percent;

~~{(e)}~~ (d) A certificate as a registered professional reporter or a certificate of merit from the National Court Reporters Association ~~{;}~~

~~{;}~~, *if the Board has approved each such certificate;*

(e) *A certificate as a certified verbatim reporter or a certificate of merit from the National Verbatim Reporters Association, if the Board has approved each such certificate;*

(f) A valid certificate or license to practice court reporting issued by another state; or

~~{(e)}~~ (g) One year of continuous experience as a full-time court reporter using *voice writing* or any system of manual or mechanical shorthand writing.

Sec. 3. NRS 656.310 is hereby amended to read as follows:

656.310 1. ~~{Every}~~ *Except as otherwise provided in subsection 2, each person to whom a valid existing certificate of registration as a certified court reporter has been issued under this chapter ~~{must}~~:*

(a) *Must be designated as a certified court reporter ~~{and not otherwise, and any such registered certified court reporter may,}~~;*

(b) *May, in connection with his practice of court reporting, use the abbreviation "C.C.R." ; and*

(c) *Shall not, in connection with his practice of court reporting, use the abbreviation "C.C.R.-V."*

2. *Each person to whom a valid existing certificate of registration as a certified court reporter has been issued under this chapter and who has only passed the portion of the examination required pursuant to paragraph (b) of subsection 2 of NRS 656.160 through the use of voice writing:*

(a) *Must be designated as a certified court reporter-voice writer;*

(b) *May, in connection with his practice of court reporting, use the abbreviation "C.C.R.-V.";*

(c) *Shall not, in connection with his practice of court reporting, use the abbreviation "C.C.R." ; and*

(d) *Shall engage in the practice of court reporting only through the use of voice writing.*

3. No person other than the holder of a valid existing certificate of registration under this chapter may use the title or designation of "certified court reporter," ~~for "C.C.R.,"~~ "certified court reporter-voice writer," "C.C.R." or "C.C.R.-V.," either directly or indirectly, in connection with his profession or business.

~~2.~~ 4. Every holder of a certificate shall place the number of his certificate:

(a) On the cover page and certificate page of all transcripts of proceedings; and

(b) On all business cards.

Sec. 4. NRS 3.320 is hereby amended to read as follows:

3.320 1. The judge or judges of any district court may appoint, subject to the provisions of this chapter and other laws as to the qualifications and examinations of the appointee, one certified court reporter, to be known as official reporter of the court or department and to hold office during the pleasure of the judge appointing him. The appointee may be any business organization if the person representing it, who actually performs the reporting service, is a certified court reporter.

2. The official reporter, or any one of them if there are two or more, shall:

(a) At the request of either party or of the court in a civil action or proceeding, and on the order of the court, the district attorney or the attorney for the defendant in a criminal action or proceeding, ~~take down in shorthand~~ *make a record* of all the testimony, the objections made, the rulings of the court, the exceptions taken, all arraignments, pleas and sentences of defendants in criminal cases, and all statements and remarks made by the district attorney or judge, and all oral instructions given by the judge; and

(b) If directed by the court or requested by either party, within such reasonable time after the trial of the case as may be designated by law or, in the absence of any law relating thereto, by the court, write out the ~~shorthand copy,~~ *record*, or such specific portions thereof as may be requested, in plain and legible longhand, or by typewriter or other printing machine. The reporter shall certify to that copy as being correctly reported and transcribed ~~and,~~ and, when directed by the law or court, *shall* file it with the clerk of the court.

Sec. 5. NRS 3.380 is hereby amended to read as follows:

3.380 1. The judge or judges of any district court may, with the approval of the board of county commissioners of any one or more of the counties comprising such district, in addition to the appointment of a court reporter as in this chapter provided, enter an order for the installation of sound recording equipment for use in any of the instances recited in NRS 3.320, for the recording of any civil and criminal proceedings, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements and remarks made by the district attorney or judge, oral

instructions given by the judge and any other proceedings occurring in civil or criminal actions or proceedings, or special proceedings whenever and wherever and to the same extent as any of such proceedings have heretofore under existing statutes been recorded by the official reporter or any special reporter or any reporter pro tempore appointed by the court.

2. For the purpose of operating such sound recording equipment, the court or judge may appoint or designate the official reporter or a special reporter or reporter pro tempore or the county clerk or clerk of the court or deputy clerk. The person so operating such sound recording equipment ~~is not required to be a certified court reporter and~~ shall subscribe to an oath that he will well and truly operate the equipment so as to record all of the matters and proceedings.

3. The court may then designate the person operating such equipment or any other competent person to read the recording and to transcribe it into typewriting. The person transcribing the recording ~~is not required to be a certified court reporter and~~ shall subscribe to an oath that he has truly and correctly transcribed it.

4. The transcript may be used for all purposes for which transcripts have heretofore been received and accepted under then existing statutes, including transcripts of testimony and transcripts of proceedings as constituting bills of exceptions or part of the bill of exceptions on appeals in all criminal cases and transcripts of the evidence or proceedings as constituting the record on appeal in civil cases and including transcripts of preliminary hearings before justices of the peace and other committing magistrates, and are subject to correction in the same manner as transcripts under existing statutes.

5. In civil and criminal cases when the court has ordered the use of such sound recording equipment, any party to the action, at his own expense, may provide a certified court reporter to ~~take down in shorthand~~ *make a record of* and transcribe all the matters of the proceeding. In such a case, the record prepared by sound recording is the official record of the proceedings, unless it fails or is incomplete because of equipment or operational failure, in which case the record prepared by the certified court reporter shall be deemed, for all purposes, the official record of the proceedings.

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

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 68.

Bill read second time.

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

Amendment No. 704.

"SUMMARY—Revises provisions governing the operation of certain medical and care facilities and agencies. (BDR 40-505)"

"AN ACT relating to public health; expanding the grounds for which the Health Division of the Department of Health and Human Services is authorized to deny, suspend or revoke a license to operate certain medical and care facilities and agencies; expanding the grounds for which termination of an employee or independent contractor of such a facility or agency is required; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, grounds for which the Health Division of the Department of Health and Human Services may deny, suspend or revoke a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups include conviction of certain crimes by the applicant or licensee or continued employment by the licensee of persons convicted of those crimes. In addition, grounds for which the Health Division may deny, suspend or revoke a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home include continued employment by the licensee of a person convicted of certain crimes. (NRS 449.160, 449.188) If the administrator of, or the person licensed to operate, such a facility or agency receives information or evidence that an employee or independent contractor has been convicted of certain crimes, the administrator or licensee is required to terminate the employment or contract of that person. (NRS 449.185) This bill expands the list of crimes for which such action is authorized or required to include the abuse, neglect, exploitation or isolation of elderly or vulnerable persons, violations of provisions relating to the State Plan for Medicaid, and any criminal act concerning Medicaid or Medicare.

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

Section 1. NRS 449.188 is hereby amended to read as follows:

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups to an applicant or may suspend or revoke the license of a licensee to operate such a facility if:

(a) The applicant or licensee has been convicted of:

- (1) Murder, voluntary manslaughter or mayhem;
- (2) Assault with intent to kill or to commit sexual assault or mayhem;
- (3) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
- (4) Abuse or neglect of a child or contributory delinquency;
- (5) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the past 7 years;

(6) ~~[A]~~ *Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any*

provision of NRS ~~[200.50955 or 200.5099;]~~ 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

(7) A violation of any provision of law relating to the State Plan for Medicaid, including, without limitation, a violation of any provision of NRS 422.450 to 422.590, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

(8) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(9) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; or

~~[(8)]~~ (10) Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years; or

(b) The licensee has , in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has , in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

3. *As used in this section:*

(a) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(b) "Medicare" has the meaning ascribed to it in NRS 439B.130.

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

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 217.

Bill read second time and ordered to third reading.

Assembly Bill No. 224.

Bill read second time and ordered to third reading.

Assembly Bill No. 365.

Bill read second time and ordered to third reading.

Assembly Bill No. 512.

Bill read second time.

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

Amendment No. 705.

"SUMMARY—Revises provisions governing educational personnel and student teachers. (BDR 34-1370)"

"AN ACT relating to education; requiring the board of trustees of a school district to employ certain student teachers as substitute teachers ~~[in certain schools and in certain subject areas]~~ under certain circumstances; *requiring the Legislative Committee on Education to study issues relating to the use of long-term substitute teachers*; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a school district to enter into an agreement for the assignment of student teachers within the school district for training purposes. (NRS 391.095) ~~[This]~~ *Section 1 of this bill* requires a school district which has entered into such an agreement to employ certain student teachers as substitutes ~~[in at-risk schools and in hard-to-fill subject areas]~~ when licensed teachers are not available to fill those positions. *Section 3 of this bill requires the Legislative Committee on Education to conduct a study of issues relating to the use of long-term substitute teachers during the 2007-2009 interim.*

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A board of trustees of a school district that has entered into an agreement pursuant to NRS 391.095 shall, before assigning a long-term substitute who is not a licensed teacher, assign a student teacher who satisfies the requirements of subsection 2 as a substitute teacher.* ~~to fill positions:~~

~~(a) At schools in which 65 percent or more of the pupils who are enrolled in the school are children who are at risk; or~~

~~(b) In the field of mathematics, science, special education or English as a second language.]~~

2. *A student teacher who has completed not less than 4 weeks of student teaching in a school district pursuant to NRS 391.095 may apply to the board of trustees of that school district for employment as a substitute teacher. The application must include the written approval of:*

(a) *The teacher who supervises the student teacher through the Nevada System of Higher Education or accredited postsecondary educational institution, as applicable; and*

(b) *The teacher who is responsible for supervising the student teacher in the classroom.*

3. *If a school district employs a student teacher as a substitute teacher pursuant to this section, the school district shall ensure that the student teacher is supervised:*

(a) *Assigned to teach in the subject area and grade level, as applicable, in which the student teacher is completing his student teaching.*

(b) Supervised by a licensed teacher. A licensed teacher so assigned must:

~~[(a)]~~ (1) Be available to assist the student teacher and observe the student teacher on a periodic basis; and

~~[(b)]~~ (2) Oversee the management of the classroom, instructional duties and administrative duties of the student teacher.

4. *A student teacher who is employed as a substitute teacher pursuant to this section is entitled to the rate of pay otherwise payable to substitute teachers employed by the school district for each day the student teacher works as a substitute teacher. Nothing in this section entitles a student teacher who is not employed as a substitute teacher to be paid for time spent completing his student teaching ~~+~~, including, without limitation, time spent completing course work and assignments required for completion of a program of study offered by the Nevada System of Higher Education or an accredited postsecondary educational institution.*

5. ~~[(The)]~~ Except as otherwise provided in this subsection, the board of trustees of a school district that employs a student teacher as a substitute teacher pursuant to this section shall, in consultation with the employee organization representing licensed teachers in the school district, provide for compensation of the licensed teacher who supervises the student teacher pursuant to subsection 3 that is in addition to the regular salary of the licensed teacher. The board of trustees is not required to provide additional compensation to:

(a) A licensed teacher who is employed by the school district for the primary purpose of supervising student teachers and who is not otherwise employed for the purpose of providing classroom instruction to pupils; or

(b) A licensed teacher who receives compensation from the Nevada System of Higher Education or an accredited postsecondary educational institution for supervising student teachers.

6. *As used in this section, "student teacher" means a student of a branch of the Nevada System of Higher Education or an accredited postsecondary educational institution who is assigned to teach for training purposes pursuant to NRS 391.095.*

Sec. 2. NRS 391.273 is hereby amended to read as follows:

391.273 1. Except as otherwise provided in subsections 4 and 10 ~~+~~ and except for persons who are supervised pursuant to section 1 of this act, the unlicensed personnel of a school district must be directly supervised by licensed personnel in all duties which are instructional in nature. To the extent practicable, the direct supervision must be such that the unlicensed personnel are in the immediate location of the licensed personnel and are readily available during such times when supervision is required.

2. Unlicensed personnel who are exempted pursuant to subsection 4 must be under administrative supervision when performing duties which are instructional in nature.

3. Unlicensed personnel may temporarily perform duties under administrative supervision which are not primarily instructional in nature.

4. Except as otherwise provided in subsection 5, upon application by a superintendent of schools, the Superintendent of Public Instruction may grant an exemption from the provisions of subsection 1. The Superintendent shall not grant an exemption unless:

- (a) The duties are within the employee's special expertise or training;
- (b) The duties relate to the humanities or an elective course of study, or are supplemental to the basic curriculum of a school;
- (c) The performance of the duties does not result in the replacement of a licensed employee or prevent the employment of a licensed person willing to perform those duties;
- (d) The secondary or combined school in which the duties will be performed has less than 100 pupils enrolled and is at least 30 miles from a school in which the duties are performed by licensed personnel; and
- (e) The unlicensed employee submits his fingerprints for an investigation pursuant to NRS 391.033.

5. The exemption authorized by subsection 4 does not apply to a paraprofessional if the provisions of 20 U.S.C. § 6319 and the regulations adopted pursuant thereto require the paraprofessional to be directly supervised by a licensed teacher.

6. The Superintendent of Public Instruction shall file a record of all exempt personnel with the clerk of the board of trustees of each local school district, and advise the clerk of any changes therein. The record must contain:

- (a) The name of the exempt employee;
- (b) The specific instructional duties he may perform;
- (c) Any terms or conditions of the exemption deemed appropriate by the Superintendent of Public Instruction; and
- (d) The date the exemption expires or a statement that the exemption is valid as long as the employee remains in the same position at the same school.

7. The Superintendent of Public Instruction may adopt regulations prescribing the procedure to apply for an exemption pursuant to this section and the criteria for the granting of such exemptions.

8. Except in an emergency, it is unlawful for the board of trustees of a school district to allow a person employed as a teacher's aide to serve as a teacher unless the person is a legally qualified teacher licensed by the Superintendent of Public Instruction. As used in this subsection, "emergency" means an unforeseen circumstance which requires immediate action and includes the fact that a licensed teacher or substitute teacher is not immediately available.

9. If the Superintendent of Public Instruction determines that the board of trustees of a school district has violated the provisions of subsection 8, he shall take such actions as are necessary to reduce the amount of money received by the district pursuant to NRS 387.124 by an amount equal to the product when the following numbers are multiplied together:

- (a) The number of days on which the violation occurred;

(b) The number of pupils in the classroom taught by the teacher's aide; and

(c) The number of dollars of basic support apportioned to the district per pupil per day pursuant to NRS 387.1233.

10. The provisions of this section do not apply to unlicensed personnel who are employed by the governing body of a charter school, unless a paraprofessional employed by the governing body is required to be directly supervised by a licensed teacher pursuant to the provisions of 20 U.S.C. § 6319 and the regulations adopted pursuant thereto.

Sec. 3. 1. The Legislative Committee on Education shall, during the 2007-2009 interim, study issues relating to the use of long-term substitute teachers, including, without limitation:

(a) The effect of the use of long-term substitutes who are not licensed teachers on the performance of pupils and the effect of the use of student teachers as substitutes pursuant to section 1 of this act on the performance of pupils;

(b) The number of long-term substitutes employed in this State and the number employed by each school district, including, without limitation, the number who are not licensed teachers;

(c) The number of student teachers employed as substitutes pursuant to section 1 of this act in this State and the number employed by each school district;

(d) The average time for which a long-term substitute is assigned to a single class;

(e) Methods to reduce the use of long-term substitutes, including, without limitation, methods to reduce the number of long-term substitutes who are not licensed teachers or not student teachers employed pursuant to section 1 of this act; and

(f) Any other issues relating to the use of long-term substitutes.

2. The Legislative Committee on Education may appoint a subcommittee to conduct the study required pursuant to subsection 1 or may request that an appropriate entity which is responsible for studying the coordination of elementary, secondary and postsecondary education in this State conduct the study and report to the Committee.

3. On or before February 1, 2009, the Legislative Committee on Education shall submit a report of the results of the study conducted pursuant to this section and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

~~Sec. 3.~~ *Sec. 4. This act becomes effective on July 1, 2007.*

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington and Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 562.

Bill read second time.

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

Amendment No. 564.

"SUMMARY—Revises provisions governing persons regulated by the Real Estate Division of the Department of Business and Industry. (BDR 54-584)"

"AN ACT relating to real estate; revising provisions governing persons regulated by the Real Estate Division of the Department of Business and Industry; imposing certain notification requirements on such persons; authorizing the limited disclosure of certain confidential information; increasing the maximum administrative fines that may be imposed for certain violations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Real Estate Division of the Department of Business and Industry is responsible for regulating various persons who work in the real estate industry in this State. (Chapters 116A, 119, 119A, 119B, 645, 645C and 645D of NRS) Sections 1, 9, 13, 15, 19, 23 and 27 of this bill require that persons regulated under those chapters notify the Division in writing if they are convicted of, or enter a plea of guilty or nolo contendere to, certain crimes. Sections 5, 10, 14, 16, 18, 22 and 26 of this bill provide that certain confidential information concerning complaints filed against such persons and investigations of those complaints may be disclosed for certain limited purposes, including disclosure as necessary to administer certain statutory provisions or to a licensing board or a law enforcement or other governmental agency that is investigating such persons. Sections 6 and 12 of this bill increase the maximum administrative fines that may be imposed for certain violations.

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

Section 1. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A licensee, property manager or owner-developer shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to:*

(a) A felony relating to the practice of the licensee, property manager or owner-developer; or

(b) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

2. *A licensee, property manager or owner-developer shall submit the notification required by subsection 1:*

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) *When submitting an application to renew a license, permit or registration issued pursuant to this chapter.*

Sec. 2. NRS 645.440 is hereby amended to read as follows:

645.440 1. If the Division, after an application for a license in proper form has been filed with it, accompanied by the proper fee, denies an application, the Division shall give notice of the ~~fact~~ *denial* to the applicant within 15 days after its ruling, order or decision.

2. Upon written request from the applicant, filed within 30 days after receipt of that notice by the applicant, the President of the Commission shall set the matter for a hearing to be conducted ~~within 90 days~~ *at the next meeting of the Commission held pursuant to NRS 645.150* after receipt of the applicant's request if the request *is received at least ~~15~~ 20 days before the meeting* and contains allegations which, if true, qualify the applicant for a license.

3. The hearing must be held at such time and place as the Commission prescribes. At least 15 days before the date set for the hearing, the Division shall notify the applicant and shall accompany the notification with an exact copy of any protest filed, together with copies of all communications, reports, affidavits or depositions in the possession of the Division relevant to the matter in question. Written notice of the hearing may be served by delivery personally to the applicant, or by mailing it by certified mail to the last known address of the applicant.

4. The hearing may be held by the Commission or by a majority of its members, and a hearing must be held, if the applicant so desires. A record of the proceedings, or any part thereof, must be made available to each party upon the payment to the Division of the reasonable cost of transcription.

5. The Commission shall render a written decision on any appeal within 60 days after the final hearing and shall notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.

6. If an applicant has made a false statement of material fact on his application, the false statement may in itself be sufficient ground for refusal of a license.

Sec. 3. NRS 645.575 is hereby amended to read as follows:

645.575 1. The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter. ~~Until the Commission adopts such regulations, the standards for continuing education are as follows:~~

~~(a) For renewal of a license which is on active status, a requirement for the hours of attendance at any approved educational course, seminar or conference of:~~

~~(1) Thirty hours within the first year immediately after initial licensing;~~
and

~~(2) Fifteen hours within each subsequent 2-year period before renewal.~~

~~For each period, at least 6 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate.~~

~~(b) For reinstatement of a license which has been placed on inactive status, a requirement for total attendance at any approved educational course, seminar or conference of:~~

~~(1) Thirty hours if the license was on inactive status for 2 years or less during the initial license period;~~

~~(2) Fifteen hours if the license was on inactive status for a period of 2 years or less, no part of which was during the initial license period;~~

~~(3) Forty five hours if the license was on inactive status for a period of more than 2 years, part of which was during the initial license period; or~~

~~(4) Thirty hours if the license was on inactive status for a period of more than 2 years, no part of which was during the initial license period.~~

~~↪ For each period, at least 6 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate.~~

~~(e) A basis and method of qualifying educational programs and certifying attendance which will satisfy the requirements of this section.~~

~~(d) A procedure for the evaluation of petitions based on a claim of equivalency with the requirements of paragraph (a) or (b).~~

~~(e) A system of controlling and reporting qualifying attendance.~~

~~(f) A statement of the conditions for which an extension of time may be granted to comply with the continuing education requirements as well as a method of applying and qualifying for an extension.]~~

2. The standards ~~[prescribed in]~~ *adopted pursuant to* subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.

3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission may, without limitation, adopt by regulation standards for continuing education that:

(a) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after initial licensing of the person.

(b) Require a person whose license as a real estate broker or real estate broker-salesman has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements

for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343, before the person's license is reissued or reinstated.

4. Except as otherwise provided in this subsection, the license of a real estate broker, broker-salesman or salesman must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal.

Sec. 4. NRS 645.6052 is hereby amended to read as follows:

645.6052 1. A person who is licensed pursuant to this chapter as a real estate broker, real estate broker-salesman or real estate salesman may apply to the Real Estate Division for a permit to engage in property management.

2. An applicant for a permit must:

(a) Furnish proof satisfactory to the Division that he has successfully completed at least 24 classroom hours of instruction in property management; and

(b) Comply with all other requirements established by the Commission for the issuance of a permit.

3. A permit expires, and may be renewed, at the same time as the license of the holder of the permit.

4. An applicant for the renewal of a permit must:

(a) Furnish proof satisfactory to the Division that he has successfully completed at least 3 of the hours of the continuing education required for the renewal of his license pursuant to *the regulations adopted by the Commission pursuant to* NRS 645.575 in an approved educational course, seminar or conference concerning property management; and

(b) Comply with all other requirements established by the Commission for the renewal of a permit.

5. The Commission may adopt such regulations as it determines are necessary to carry out the provisions of this section. The regulations may, without limitation:

(a) Establish additional requirements for the issuance or renewal of a permit.

(b) Establish fees for the issuance and renewal of a permit and fees to pay the costs of:

(1) Any examination for a permit, including any costs which are necessary for the administration of such an examination.

(2) Any investigation of an applicant's background.

(c) Set forth standards of education for the approval of a course of instruction to qualify an applicant for a permit.

Sec. 5. NRS 645.625 is hereby amended to read as follows:

645.625 1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other

information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[-]~~ and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license, permit or registration issued pursuant to this chapter.

2. A complaint or other document filed with the Commission to initiate disciplinary action and all documents and information considered by the Commission when determining whether to impose discipline are public records.

Sec. 6. NRS 645.630 is hereby amended to read as follows:

645.630 1. The Commission may require a licensee, property manager or owner-developer to pay an administrative fine of not more than ~~[\$5,000]~~ \$10,000 for each violation he commits or suspend, revoke, deny the renewal of or place conditions upon his license, permit or registration, or impose any combination of those actions, at any time if the licensee, property manager or owner-developer has, by false or fraudulent representation, obtained a license, permit or registration, or the licensee, property manager or owner-developer, whether or not acting as such, is found guilty of:

- (a) Making any material misrepresentation.
- (b) Making any false promises of a character likely to influence, persuade or induce.
- (c) Accepting a commission or valuable consideration as a real estate broker-salesman or salesman for the performance of any of the acts specified in this chapter or chapter 119 or 119A of NRS from any person except the licensed real estate broker with whom he is associated or the owner-developer by whom he is employed.
- (d) Representing or attempting to represent a real estate broker other than the broker with whom he is associated, without the express knowledge and consent of the broker with whom he is associated.
- (e) Failing to maintain, for review and audit by the Division, each brokerage agreement and property management agreement governed by the provisions of this chapter and entered into by the licensee.
- (f) Failing, within a reasonable time, to account for or to remit any money which comes into his possession and which belongs to others.
- (g) If he is required to maintain a trust account:
 - (1) Failing to balance the trust account at least monthly; and
 - (2) Failing to submit to the Division an annual accounting of the trust account as required in NRS 645.310.
- (h) Commingling the money or other property of his clients with his own or converting the money of others to his own use.
- (i) In the case of a broker-salesman or salesman, failing to place in the custody of his licensed broker or owner-developer, as soon as possible, any

deposit or other money or consideration entrusted to him by any person dealing with him as the representative of his licensed broker.

(j) Accepting other than cash as earnest money unless that fact is communicated to the owner before his acceptance of the offer to purchase and that fact is shown in the receipt for the earnest money.

(k) Upon acceptance of an agreement, in the case of a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided in the purchase agreement.

(l) Inducing any party to a brokerage agreement, property management agreement, agreement of sale or lease to break it in order to substitute a new brokerage agreement, property management agreement, agreement of sale or lease with the same or another party if the inducement to make the substitution is offered to secure personal gain to the licensee or owner-developer.

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

Sec. 7. NRS 645.685 is hereby amended to read as follows:

645.685 1. The licensee, permittee or owner-developer shall file an answer to the charges with the Commission ~~no~~ *not* later than 30 days after service of the notice and other documents described in subsection 4 of NRS 645.680. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee, permittee or owner-developer will rely. If no answer is filed within the ~~time limit~~ *period* described in this subsection, the Division may, after notice to the licensee, permittee or owner-developer served in the manner authorized in subsection 5 of NRS 645.680, move the Commission for the entry of a default against the licensee, permittee or owner-developer.

2. The answer may be served by delivery to the Commission, or by mailing the answer by certified mail to the principal office of the Division.

3. No proceeding to suspend, revoke or deny the renewal of any license or registration of an owner-developer may be maintained unless it is commenced by the giving of notice to the licensee, permittee or owner-developer within ~~3 years of the time~~ *5 years after the date* of the act charged, whether of commission or omission, except:

(a) If the charges are based upon a misrepresentation, or failure to disclose, the period does not commence until the discovery of facts which do or should lead to the discovery of the misrepresentation or failure to disclose; and

(b) Whenever any action or proceeding is instituted to which the Division, licensee, permittee or owner-developer is a party and which involves the conduct of the licensee, permittee or owner-developer in the transaction with which the charges are related, the running of the ~~3-year~~ *5-year* period with respect to the institution of a proceeding pursuant to this chapter to suspend, revoke or deny the renewal of the license, permit or registration is suspended during the pendency of the action or proceeding.

Sec. 8. NRS 645.863 is hereby amended to read as follows:

645.863 1. A person who is licensed as a real estate broker, real estate broker-salesman or real estate salesman pursuant to this chapter may apply to the Real Estate Division for a permit to engage in business as a business broker.

2. An applicant for a permit must:

(a) Provide proof satisfactory to the Real Estate Division that he has successfully completed at least 24 hours of ~~classroom~~ instruction relating to business brokerage; and

(b) Comply with any other requirements for the issuance of a permit established by the Commission.

3. A permit expires on the same date as the license of the holder of the permit expires. A permit may be renewed at the time that a person licensed pursuant to this chapter applies for renewal of his license.

4. An applicant for the renewal of a permit must:

(a) Provide proof satisfactory to the Real Estate Division that he has successfully completed at least 3 hours of continuing education required for the renewal of his license pursuant to *the regulations adopted by the Commission pursuant to NRS 645.575* in an approved educational course, seminar or conference relating to business brokerage.

(b) Comply with any other requirements for renewal of a permit established by the Commission.

5. The Commission shall adopt such regulations as are necessary to carry out the provisions of this section. The regulations must include, without limitation, provisions that establish:

(a) Requirements for the issuance or renewal of a permit.

(b) Fees for:

(1) The issuance or renewal of a permit;

(2) The cost of any examination required of an applicant for a permit, including, without limitation, any costs which are necessary for the administration of an examination; and

(3) The cost of any investigation of an applicant for a permit.

(c) Standards of education for the approval of a course of instruction to qualify an applicant for the issuance or renewal of a permit.

Sec. 9. Chapter 645C of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A certified or licensed appraiser or registered intern shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony relating to the practice of appraisers or any offense involving moral turpitude.*

2. *A certified or licensed appraiser or registered intern shall submit the notification required by subsection 1:*

(a) *Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and*

(b) When submitting an application to renew a certificate, license or registration card issued pursuant to this chapter.

Sec. 10. NRS 645C.225 is hereby amended to read as follows:

645C.225 1. Except as otherwise provided in this section, a complaint filed with the Commission, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[-]~~ *and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate, license or registration card issued pursuant to this chapter.*

2. The complaint or other document filed by the Commission to initiate disciplinary action and all documents and information considered by the Commission when determining whether to impose discipline are public records.

Sec. 11. NRS 645C.410 is hereby amended to read as follows:

645C.410 1. If an intern for any reason terminates his association with an appraiser, the appraiser shall:

(a) Immediately deliver or mail by certified mail to the Division the intern's registration card, together with a written statement of the circumstances surrounding the termination of the association and a copy of the notice required by paragraph (b); and

(b) At the time of delivering or mailing the registration card to the Division, advise the intern that his registration card has been forwarded to the Division by mailing notice of that fact to the intern's last known residential address.

2. The registration card must be suspended if the intern does not become associated with another certified ~~for licensed~~ appraiser within ~~[30]~~ 60 days after the termination of his previous association.

3. The intern shall not assist in the preparation or communication, whether directly or indirectly, of an appraisal under the authority of his registration card from the date that the registration card is delivered or mailed by the appraiser with whom his association was terminated to the Division, until the date that a new registration card is issued naming another appraiser with whom the intern has become associated.

Sec. 12. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

(d) The suspension or revocation of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than ~~[\$1,000]~~ \$10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

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

Sec. 13. Chapter 645D of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A certified inspector shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any offense involving moral turpitude.*

2. *A certified inspector shall submit the notification required by subsection 1:*

(a) *Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and*

(b) *When submitting an application to renew a certificate issued pursuant to this chapter.*

Sec. 14. NRS 645D.135 is hereby amended to read as follows:

645D.135 1. Except as otherwise provided in this section, a complaint filed with the Division, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[]~~ and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate issued pursuant to this chapter.

2. The complaint or other document filed by the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

Sec. 15. Chapter 116A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A community manager who holds a certificate and a reserve study specialist who holds a permit shall notify the Division in writing if he is*

convicted of, or enters a plea of guilty or nolo contendere to, a felony or any offense involving moral turpitude.

2. A community manager or reserve study specialist shall submit the notification required by subsection 1 not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere.

Sec. 16. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter or chapter 116 of NRS, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[-]~~ and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate or permit issued pursuant to this chapter.

2. The complaint or other charging documents filed with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.

Sec. 17. Chapter 119 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 and 19 of this act.

Sec. 18. 1. *Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license or permit issued pursuant to this chapter.*

2. The complaint or other charging documents filed with the Division to initiate disciplinary action and all documents and other information considered by the Division or a hearing officer when determining whether to impose discipline are public records.

Sec. 19. 1. *A developer or registered representative shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any offense involving moral turpitude.*

2. A developer or registered representative shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a license, permit or registration issued pursuant to this chapter.

Sec. 20. NRS 119.182 is hereby amended to read as follows:

119.182 1. The information submitted pursuant to NRS 119.140 must be given to and reviewed with each purchaser by the broker or salesman before the execution of any contract for the sale of any such property. The broker shall obtain from the purchaser a signed receipt for a copy of the information and, if a contract for disposition is entered into, the receipt and a copy of all contracts and agreements must be kept in the broker's files within the State of Nevada for 3 years or 1 year after final payment has been made on any contract for the sale of property, whichever is longer, and is subject to such inspection and audit as may be prescribed by regulations of the Division.

2. The purchaser of any subdivision or any lot, parcel, unit or interest in any subdivision, not exempted under the provisions of NRS 119.120 or 119.122 may cancel, by written notice, the contract of sale until midnight of the fifth calendar day following the date of execution of the contract, and the contract must so provide. The right of cancellation may not be waived. Any attempt by the developer to obtain such a waiver results in a contract which is voidable by the purchaser.

3. The notice of cancellation may be delivered personally to the developer or sent by certified mail ~~[or telegram]~~, *return receipt requested*, to the business address of the developer.

4. The developer shall, within 15 days after receipt of the notice of cancellation, return all payments made by the purchaser.

Sec. 21. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 23 of this act.

Sec. 22. 1. *Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license, registration or permit issued pursuant to this chapter.*

2. *The complaint or other charging documents filed with the Administrator to initiate disciplinary action and all documents and other information considered by the Administrator or a hearing officer when determining whether to impose discipline are public records.*

Sec. 23. 1. *A sales agent, representative, manager, developer or project broker shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any crime involving moral turpitude.*

2. *A sales agent, representative, manager, developer or project broker shall submit the notification required by subsection 1:*

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a license, registration or permit issued pursuant to this chapter.

Sec. 24. NRS 119A.410 is hereby amended to read as follows:

119A.410 1. The purchaser of a time share may cancel, by written notice, the contract of sale until midnight of the fifth calendar day following the date of execution of the contract. The contract of sale must include a statement of this right.

2. The right of cancellation may not be waived. Any attempt by the developer to obtain a waiver results in a contract which is voidable by the purchaser.

3. The notice of cancellation may be delivered personally to the developer or sent by certified mail ~~for telegram~~, *return receipt requested*, to the business address of the developer.

4. The developer shall, within 15 days after receipt of the notice of cancellation, return all payments made by the purchaser.

Sec. 25. Chapter 119B of NRS is hereby amended by adding thereto the provisions set forth as sections 26 and 27 of this act.

Sec. 26. 1. *Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a permit issued pursuant to this chapter.*

2. *The complaint or other charging documents filed with the Administrator to initiate disciplinary action and all documents and other information considered by the Administrator when determining whether to impose discipline are public records.*

Sec. 27. 1. *A developer shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any crime involving moral turpitude.*

2. *A developer shall submit the notification required by subsection 1:*

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a permit issued pursuant to this chapter.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 569.

Bill read second time.

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

Amendment No. 708.

"SUMMARY—Makes various changes relating to elections. (BDR 24-322)"

"AN ACT relating to elections; eliminating various provisions concerning supplies that are no longer used in elections; regulating the process for rescinding a withdrawal of candidacy; making various changes regarding early voting; providing a deadline by which a regulation of the Secretary of State must be effective to be applicable to a particular election; providing for when certain offices must be declared elected and no election held for the office; making certain changes concerning the official record for a recount; making various changes to the provisions governing absent ballots; making various changes concerning questions placed on a ballot; making various other changes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law in chapters 293, 293B and 293C of NRS refers to the use of pollbooks and to mechanical voting systems whereby a voter may cast his vote by punching a card. Sections 5, 6, 9, 16, 18, 20, 23, 25, 26, 28, 29, 31-35, 37, 40-44, 46, 47, 50, 55-59, 61-64, 66, 67, 69-72, 74-78, 80, 82-87, 89-95 and 97-99 of this bill eliminate references to the use of pollbooks or to a voter punching a card or casting his ballot with a punch card and to any procedures concerning the use of such supplies, as these supplies and systems are no longer in use in elections in this State. Section 101 of this bill repeals many sections that deal exclusively with these supplies and systems.

Existing law authorizes and provides a procedure for a candidate to withdraw his candidacy, but makes no provision for the manner in which a candidate may rescind after he has withdrawn his declaration of candidacy. (NRS 293.202) Section 11 of this bill creates a procedure for a candidate to rescind his withdrawal of candidacy.

Existing law requires the Secretary of State to adopt regulations governing the conduct of elections. (NRS 293.247) Sections 17 and 96 of this bill provide that only permanent regulations of the Secretary of State that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.

Existing law provides that when no more than the number of candidates to be elected have filed for nomination for most nonpartisan offices, the names of the candidates must still appear on the ballot for the primary election. (NRS 293.260) Sections 19 and 100 change that requirement to provide that for the office of member of a town advisory board and for certain offices on the Board of Governors of the Elko Convention and Visitors Authority, in

such a situation those candidates must be declared elected and no election may be held for that office.

Existing law requires that mechanical recording devices which directly record votes electronically must provide a permanent paper record that must be available as an official record for a recount. (NRS 293.2696, 293B.084) Sections 24 and 57 of this bill eliminate the requirement that the permanent paper records be available as an official record for a recount.

Existing law specifies the procedure for county and city clerks to process absent ballots returned by mail or in person. (NRS 293.325, 293C.325) Sections 30 and 73 of this bill make revisions to clarify the procedure.

Existing law specifies the procedure and timing for the appropriate counting board to remove absent ballots from ballot boxes for the purpose of counting them. (NRS 293.384, 293.385, 293C.382, 293C.385) Sections 45, 46, 88 and 89 of this bill revise the timing to provide that the appropriate counting board may remove the absent ballots from the ballot boxes or containers 3 working days earlier than the current provisions allow.

Existing law authorizes and sets forth a procedure for the governing body of a political subdivision or other local agency to submit a question to the qualified electors or registered voters of a designated territory. (NRS 293.481) Section 51 of this bill requires a county clerk to assign a unique identification number to such a question and creates a procedure for such a governing body to withdraw a question that was properly submitted to a county or city clerk.

Existing law requires the use of voting receipts and specifies that such voting receipts have two parts. (NRS 293.2673, 293.3585, 293.3604, 293B.300, 293B.305, 293C.261, 293C.3585, 293C.3604, 293C.620) Sections 22, 37, 38, 60, 61, 68, 80, 81 and 91 of this bill change these provisions to make the use of voting receipts optional at the discretion of the county or city clerk. These sections of the bill also eliminate the requirement that the voting receipts have two parts.

Section 101 of this bill repeals the section that requires the Secretary of State to publish a pamphlet describing the requirements for filing and circulating an initiative petition and several other sections dealing with obsolete election procedures. (NRS 293.12756)

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Ballot box" means a box that is capable of being secured and is used to receive the voted ballots.*

Sec. 3. *"Provisional ballot" means a ballot voted by a person pursuant to NRS 293.3081 to 293.3086, inclusive.*

Sec. 4. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, and

sections 2 and 3 of this act, have the meanings ascribed to them in those sections.

Sec. 5. NRS 293.025 is hereby amended to read as follows:

293.025 "Ballot" means the record of a voter's preference of candidates and questions voted upon at an election. The term includes, without limitation, any paper given to a voter upon which he places his vote ~~[-a punch card which records the vote of a voter]~~ and electronic storage tapes.

Sec. 6. NRS 293.040 is hereby amended to read as follows:

293.040 "Clerk" means the election board officer designated or assigned to make the record of the election in the ~~[pollbook,]~~ roster, tally list and challenge list in the precinct or district in which such officer is appointed.

Sec. 7. NRS 293.093 is hereby amended to read as follows:

293.093 "Regular votes" means the votes cast by registered voters, except votes cast by absent *ballot or provisional* ballot.

Sec. 8. NRS 293.097 is hereby amended to read as follows:

293.097 "Sample ballot" means a document distributed by a county or city clerk upon which is printed a ~~[facsimile of]~~ list of the offices, candidates and ballot questions that will appear on a ballot. The term includes any such document which is printed by a computer.

Sec. 9. NRS 293.113 is hereby amended to read as follows:

293.113 "Tally list" ~~for "tally book"~~ means the ~~[forms]~~ form furnished to election board officers to be used in ~~[tallying or]~~ recording the number of votes cast for each candidate and question on the ballot. ~~[as such votes are called in counting.]~~

Sec. 10. NRS 293.12757 is hereby amended to read as follows:

293.12757 A person may sign a petition required under the election laws of this State on or after the date he is deemed to be registered to vote pursuant to ~~[subsection 5 of]~~ NRS 293.517 or subsection 7 of NRS 293.5235.

Sec. 11. NRS 293.202 is hereby amended to read as follows:

293.202 1. A withdrawal of candidacy for office must be in writing and must be presented by the candidate in person, within 7 days, excluding Saturdays, Sundays and holidays, after the last day for filing, to the officer whose duty it is to receive filings for candidacy for that office. *If the withdrawal of candidacy is submitted in a timely manner pursuant to the provisions of this subsection, it shall be deemed effective after the seventh day, excluding Saturdays, Sundays and holidays, after the last day for filing.*

2. *A rescission of a withdrawal of candidacy must be in writing and presented by the candidate in person, within the 7 days, excluding Saturdays, Sundays and holidays, after the last day for filing, to the officer whose duty it is to receive filings for candidacy for that office.*

Sec. 12. NRS 293.207 is hereby amended to read as follows:

293.207 1. Election precincts must be established on the basis of the number of registered voters therein, with a maximum ~~of 600 registered voters per precinct in those precincts in which paper ballots are used, or a~~

~~maximum~~] of 1,500 registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.

2. Except as otherwise provided in subsections 3 and 4, the county clerk may consolidate two or more contiguous election precincts into a single voting district to conduct a particular election as public convenience, necessity and economy may require.

3. If a county clerk proposes to consolidate two or more contiguous election precincts, in whole or in part, pursuant to subsection 2, the county clerk shall, at least 14 days before consolidating the precincts, cause notice of the proposed consolidation to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the consolidation.

4. A person may file a written objection to the proposed consolidation with the county clerk. The county clerk shall consider each written objection filed pursuant to this subsection before consolidating the precincts.

Sec. 13. NRS 293.213 is hereby amended to read as follows:

293.213 1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may establish that precinct as a mailing precinct . ~~[, and shall forthwith mail notification to the field registrar for that precinct.]~~

2. Except as otherwise provided in NRS 293.208, the county clerk in any county where an absent ballot central counting board is appointed may abolish two or more existing mailing precincts and combine those mailing precincts into absent ballot precincts. Those mailing precincts must be designated absent ballot mailing precincts.

3. In any county where an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

4. The county clerk shall, at least 14 days before establishing or designating a precinct as a mailing precinct or absent ballot mailing precinct or before abolishing a mailing precinct pursuant to this section, cause notice of such action to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the action.

Sec. 14. NRS 293.217 is hereby amended to read as follows:

293.217 1. The county clerk of each county shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the county as provided in NRS 293.220 to ~~{293.245,}~~ 293.243, inclusive, and 293.384 . ~~{and shall conclude those duties no later than 31 days before the election.}~~ The registered voters appointed as election board officers for any precinct or district must not all be of the same political party. No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the county clerk, the sheriff shall:

(a) Appoint a deputy sheriff for each polling place in the county and for the central election board or the absent ballot central counting board; or

(b) Deputize as a deputy sheriff for the election an election board officer of each polling place in the county and for the central election board or the absent ballot central counting board. The deputized officer shall receive no additional compensation for his services rendered as a deputy sheriff during the election for which he is deputized.

↳ Deputy sheriffs so appointed and deputized shall preserve order during hours of voting and attend closing of the polls.

2. The county clerk may appoint a trainee for the position of election board officer as set forth in NRS 293.2175.

Sec. 15. NRS 293.227 is hereby amended to read as follows:

293.227 1. Each election board ~~{consists of at least three members, one of whom must be}~~ *must have one member designated as the chairman* by the county or city clerk. The *election* boards shall make the records of election required by this chapter.

2. The appointment of a trainee as set forth in NRS 293.2175 and 293C.222 may be used to determine the number of members on the election board, but under no circumstances may:

(a) The election board of any precinct include more than one trainee; or

(b) A trainee serve as chairman of the election board.

3. The county or city clerk shall conduct or cause to be conducted ~~{at least 5 days before the date of the election for which the boards are appointed,}~~ a school to acquaint the ~~{chairmen}~~ *members of an election board* with the election laws, duties of election boards, regulations of the Secretary of State and with the procedure for making the records of election and using the register for election boards. ~~{If the person appointed chairman is unable for any reason to attend the school, he shall appoint some other member of his election board to attend the school in his stead.}~~

4. The board of county commissioners of any county or the city council of any city may reimburse the ~~{chairmen or their designees}~~ *members of an election board* who attend the school for their travel expenses at a rate not exceeding 10 cents per mile.

~~{5.—Each chairman shall instruct his board before election day.}~~

Sec. 16. NRS 293.230 is hereby amended to read as follows:

293.230 ~~{1. In precincts or districts where there are less than 200 registered voters and paper ballots are used, the election board shall perform all duties required from the time of preparing for the opening of the polls through delivering the supplies and result of votes cast to the county clerk.~~

~~2.}~~ Except as otherwise provided in NRS 293.235, one election board must be appointed by the county clerk for all mailing precincts within the county and must be designated the central election board. The county clerk shall deliver the mailed ballots to that board in his office and the board shall count the votes on those ballots in the manner required by law.

Sec. 17. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. *Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.*

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

~~{2.}~~ 3. The regulations must prescribe:

- (a) The duties of election boards;
- (b) The type and amount of election supplies;
- (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
- (d) The method to be used in distributing ballots to precincts and districts;
- (e) The method of inspection and the disposition of ballot boxes;
- (f) The form and placement of instructions to voters;
- (g) The recess periods for election boards;
- (h) The size, lighting and placement of voting booths;
- (i) The amount and placement of guardrails and other furniture and equipment at voting places;
- (j) The disposition of election returns;
- (k) The procedures to be used for canvasses, ties, recounts and contests ~~{;}~~, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;
- (l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;
- (m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;

(n) *The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;*

(o) The procedures to be used for the disposition of absent ballots in case of an emergency;

~~{(o)}~~ (p) The forms for applications to register to vote and any other forms necessary for the administration of this title; and

~~{(p)}~~ (q) Such other matters as determined necessary by the Secretary of State.

~~{3-}~~ 4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

~~{4-}~~ 5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

(a) Laws and regulations concerning elections in this State;

(b) Interpretations issued by the Secretary of State's Office; and

(c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

Sec. 18. NRS 293.250 is hereby amended to read as follows:

293.250 1. The Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, ~~{pollbooks,}~~ registers, rosters, statements and abstracts required by the election laws of this State.

(b) The procedure to be followed when a computer is used to register voters and to keep records of registration.

2. The Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against, and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be

prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 19. NRS 293.260 is hereby amended to read as follows:

293.260 1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.

2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.

3. If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.

4. If only one major political party has candidates for a particular office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:

(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the

nominee for that office and his name must be placed on the ballot for the general election.

(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.

5. Where no more than the number of candidates to be elected have filed for nomination for:

(a) Any partisan office or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election; ~~and~~

(b) Any nonpartisan office, other than the office of justice of the Supreme Court ~~;~~ or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, he must be declared elected to the office and his name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his name must be placed on the ballot for the general election ~~;~~; and

(c) *The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.*

6. If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

Sec. 20. NRS 293.262 is hereby amended to read as follows:

293.262 An absent ballot or a ballot voted by a voter who resides in a mailing precinct must be voted:

1. On a paper ballot ~~;~~

~~2. On a ballot which is voted by punching a card; or~~

~~3. ; or~~

2. By any other system authorized by state or federal law.

Sec. 21. NRS 293.265 is hereby amended to read as follows:

293.265 On nonpartisan primary ballots, there must appear at the top of the ballot the designation ~~["Candidates for"]~~ "Nonpartisan Offices." Except as otherwise provided in NRS 293.2565, following this designation must appear the names of candidates grouped alphabetically under the title and length of term of the nonpartisan office for which those candidates filed.

Sec. 22. NRS 293.2673 is hereby amended to read as follows:

293.2673 1. A ballot prepared for use in an election in this State must be dated and marked in such a manner as to indicate clearly at which election the ballot will be used.

2. If a ballot includes a detachable stub, both the ballot and the stub must include the date of the election and indicate clearly at which election the ballot will be used.

3. If a ballot includes a voting receipt, ~~[which has two parts, each part of]~~ the voting receipt must include the date of the election and indicate clearly at which election the ~~[ballot will be used.]~~ voter cast his ballot.

Sec. 23. NRS 293.2693 is hereby amended to read as follows:

293.2693 If a county or city uses paper ballots ~~[or punch cards]~~ in an election, including, without limitation, for absent ballots and ballots voted in a mailing precinct, the county or city clerk shall provide a voter education program specific to the voting system used by the county or city. The voter education program must include, without limitation, information concerning the effect of overvoting and the procedures for correcting a vote on a ballot before it is cast and counted and for obtaining a replacement ballot.

Sec. 24. NRS 293.2696 is hereby amended to read as follows:

293.2696 The Secretary of State and each county and city clerk shall ensure that each voting system used in this State:

1. Secures to each voter privacy and independence in the act of voting, including, without limitation, confidentiality of the ballot of the voter;

2. Allows each voter to verify privately and independently the votes selected by the voter on the ballot before the ballot is cast and counted;

3. Provides each voter with the opportunity, in a private and independent manner, to change the ballot and to correct any error before the ballot is cast and counted, including, without limitation, the opportunity to correct an error through the issuance of a replacement ballot if the voter is otherwise unable to change the ballot or correct the error;

4. Provides a permanent paper record with a manual audit capacity ; ~~[which must be available as an official record for a recount;]~~ and

5. Meets or exceeds the standards for voting systems established by the Federal Election Commission, including, without limitation, the error rate standards.

Sec. 25. NRS 293.285 is hereby amended to read as follows:

293.285 ~~[1.]~~ A registered voter applying to vote shall state his name to the election board officer in charge of the election board register and the officer shall immediately announce the name and take the registered voter's signature. ~~[After a registered voter is properly identified at a polling place where paper ballots are used, one partisan ballot and, if required, one nonpartisan ballot, correctly folded must be given to the voter and the number of the ballot or ballots must be written by an election board officer upon the pollbook, opposite the name of the registered voter receiving the ballot or ballots.]~~

~~2.—In pollbooks in which voters' names have been entered, election officers may indicate the application to vote without writing the name.]~~

Sec. 26. NRS 293.297 is hereby amended to read as follows:

293.297 ~~[1.—Except as otherwise provided in subsection 2:]~~

~~(a) Any voter who spoils his ballot may return the spoiled ballot to the election board and receive another in its place.~~

~~(b) The election board officers shall indicate in the pollbook that the ballot is spoiled and shall enter the number of the ballot issued in its place.~~

~~(c) Each spoiled ballot returned must be cancelled by writing the word "Cancelled" across the back of the ballot. A spoiled paper ballot must be cancelled without unfolding it.~~

~~(d) A record must be made of those cancelled ballots at the closing of the polls and before counting. The ballots must be placed in a separate envelope and returned to the appropriate county clerk with the election supplies.~~

~~2. If ballots which are voted on a} A mechanical recording device which directly records {the} votes electronically {are used,} must allow the voter {must be able} to change his vote before the mechanical recording device permanently records that vote.~~

Sec. 27. NRS 293.303 is hereby amended to read as follows:

293.303 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct ~~{or district}~~ upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election . ~~{; or}~~ *A registered voter who initiates a challenge pursuant to this paragraph must submit an affirmation that is signed under penalty of perjury and in the form prescribed by the Secretary of State stating that the challenge is based on the personal knowledge of the registered voter.*

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not belong to the political party designated upon the register, "I swear or affirm under penalty of perjury that I belong to the political party designated upon the register";

(b) If the challenge is on the ground that the register does not show that he designated the political party to which he claims to belong, "I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong";

(c) If the challenge is on the ground that he does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";

(d) If the challenge is on the ground that he previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(e) If the challenge is on the ground that he is not the person he claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."

↪ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged" opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue him a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform him that he is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue him a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he furnishes satisfactory identification which contains proof of the address at which he actually resides.

8. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

9. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

Sec. 28. NRS 293.304 is hereby amended to read as follows:

293.304 1. If a person is successfully challenged on the ground set forth in paragraph (c) of subsection 2 of NRS 293.303 or if a person refuses to provide an affirmation pursuant to NRS 293.525, the election board shall instruct the voter that he may vote only at the special polling place in the manner set forth in this section.

2. The county clerk of each county shall maintain a special polling place in his office and at such other locations as he deems necessary during each election. The ballots voted at the special polling place must be kept separate from the ballots of voters who have not been so challenged or who have provided an affirmation pursuant to NRS 293.525 in ~~the~~:

~~(a) A special ballot box if the ballots are paper ballots or ballots which are voted by punching a card; or~~

~~(b) A~~ a special sealed container if the ballots are ballots which are voted on a mechanical recording device which directly records the votes electronically.

3. A person who votes at a special polling place may place his vote only for the following offices and questions:

(a) President and Vice President of the United States;

(b) United States Senator;

(c) All state officers for whom all voters in the State may vote;

(d) All officers for whom all voters in the county may vote; and

(e) Questions which have been submitted to all voters of the county or State.

4. The ballots voted at the special polling place must be counted when other ballots are counted and ~~the~~:

~~(a) If the ballots are paper ballots or ballots which are voted by punching a card, maintained in a separate ballot box; or~~

~~(b) If~~ , if the ballots are ballots which are voted on a mechanical recording device which directly records the votes electronically, maintained in a separate sealed container ~~the~~

~~the~~ until any contest of election is resolved or the date for filing a contest of election has passed, whichever is later.

Sec. 29. NRS 293.323 is hereby amended to read as follows:

293.323 1. Except as otherwise provided in subsection 2, if the request for an absent ballot is made by mail or facsimile machine, the county clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail *or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot*, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail if the absent voter is in a foreign country but not on a military base:

(a) ~~Except as otherwise provided in paragraph (b):~~

~~(1)~~ An absent ballot;

~~(2)~~ (b) A return envelope;

~~(3)~~ Supplies for marking the ballot;

~~(4)~~ (c) An envelope or similar device into which the ballot is inserted

to ensure its secrecy; and

~~(5)~~ Instructions.

~~(b) In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(1) A card attached to a sheet of foam plastic or similar backing material;~~

~~(2) A return envelope;~~

~~(3) A punching instrument;~~

~~(4) A sample ballot;~~

~~(5) An envelope or similar device into which the card is inserted to ensure its secrecy; and~~

~~(6) (d) Instructions.~~

2. If the county clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the county clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter shall mail his absent ballot to the county clerk.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2.

5. Before depositing a ballot in the ~~mails~~ *mail* or sending a ballot by facsimile machine, the county clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, his political affiliation, if any, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 30. NRS 293.325 is hereby amended to read as follows:

293.325 1. Except as otherwise provided in ~~subsections 2 and 3,~~ *subsection 2*, when

an absent ballot is returned by a registered voter to the county clerk through the ~~mails~~ *mail or in person*, and record thereof is made in the absent ballot record book, the county clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If ~~the county clerk has appointed~~ an absent ballot central counting board ~~the county clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope against the original signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. At the end of each day before election day, the county clerk may remove the ballots from each ballot box and neatly stack the ballots in a container. Except as otherwise provided in subsection 3, on election day the county clerk shall deliver the ballot box~~

and, if applicable, each container to the absent ballot counting board to be counted.

~~3. If the county uses a mechanical voting system, the county clerk shall, upon receipt of each absent voter's ballot, make a record of the return and has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail or in person, the county clerk shall check the signature on the return envelope against the original signature of the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the county clerk at all times. At the end of each day before election day, the county clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. [Except as otherwise provided in this subsection, on election day the county clerk shall deliver the ballot box and each container, if applicable, to the central counting place. If the county uses a mechanical voting system and the county clerk has appointed an absent ballot central counting board, the county clerk may, not] Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for [tabulation] counting pursuant to the procedures established by the Secretary of State [.] to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293.273 or 293.305.~~

Sec. 31. NRS 293.330 is hereby amended to read as follows:

293.330 1. Except as otherwise provided in NRS 293.3157 and subsection 2 of NRS 293.323 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it [., if it is a paper ballot, or punch it, if the ballot is voted by punching a card,] in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the county clerk, he must mark [or punch] the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the county clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

- (a) Provides satisfactory identification;
- (b) Is a registered voter who is otherwise entitled to vote; and
- (c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293.316, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 32. NRS 293.333 is hereby amended to read as follows:

293.333 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the county clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293.325 and deposit the ballots in the regular ballot box in the following manner:

- 1. The name of the voter, as shown on the return envelope, must be called and checked as if the voter were voting in person;
- 2. The signature on the back of the return envelope must be compared with that on the original application to register to vote;
- 3. If the board determines that the absent voter is entitled to cast his ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot ~~[]~~ and, if the numbers are the same, the ballot deposited in the regular ballot box; and
- 4. The election board officers shall mark in the ~~[pollbook]~~ *roster* opposite the name of the voter the word "Voted."

Sec. 33. NRS 293.350 is hereby amended to read as follows:

293.350 1. The county clerk shall:

- (a) Make certain of the names and addresses of all voters registered to vote in mailing precincts and absent ballot mailing precincts;
- (b) Enroll the name and address of each voter found eligible to vote in those precincts in the mailing precinct record book;
- (c) Mark the number of the ballot on the return envelope; and
- (d) Mail the ballot to the registered voter.

2. ~~[Except as otherwise provided in subsection 3, the]~~ *The* ballot must be accompanied by:

- (a) ~~[Supplies for marking the ballot;~~
- ~~(b)]~~ A return envelope;

~~[(e)]~~ (b) An envelope or similar device into which the ballot is inserted to ensure its secrecy;

~~[(d)]~~ (c) A sample ballot; and

~~[(e)]~~ (d) Instructions regarding the manner of marking and returning the ballot.

~~[3.—In those counties using a mechanical voting system whereby a vote is cast by punching a card, the ballot must be accompanied by:~~

~~(a) A sheet of foam plastic or similar backing material attached to the card;~~

~~(b) A punching instrument;~~

~~(e) A return envelope;~~

~~(d) An envelope or similar device into which the card is inserted to ensure its secrecy;~~

~~(e) A sample ballot; and~~

~~(f) Instructions regarding the manner of punching and returning the card.]~~

Sec. 34. NRS 293.353 is hereby amended to read as follows:

293.353 Upon receipt of a mailing ballot from the county clerk, the registered voter must:

1. ~~[Except as otherwise provided in subsection 2:~~

~~(a)]~~ Immediately after opening the envelope, mark and fold the ballot;

~~[(b)]~~ 2. Place the ballot in the return envelope;

~~[(e)]~~ 3. Affix his signature on the back of the envelope; and

~~[(d)]~~ 4. Mail or deliver the envelope to the county clerk.

~~[2.—In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(a) Immediately after opening the envelope, punch the card;~~

~~(b) Place the unfolded card in the return envelope;~~

~~(e) Affix his signature on the back of the envelope; and~~

~~(d) Mail or deliver the envelope to the county clerk.]~~

Sec. 35. NRS 293.356 is hereby amended to read as follows:

293.356 If a request is made to vote early by a registered voter in person, the election board shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of a polling place for early voting established pursuant to NRS 293.3564 or 293.3572 . ~~[and returned to the election board. If the ballot is a paper ballot, a ballot which is voted by punching a card or a ballot which is voted by any other system authorized by state or federal law, the election board shall follow the same procedure as in the case of absent ballots received by mail.]~~

Sec. 36. NRS 293.3568 is hereby amended to read as follows:

293.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary or general election and extends through the Friday before election day, Sundays and holidays excepted.

2. The county clerk may:

(a) Include any Sunday or holiday that falls within the period for early voting by personal appearance.

(b) Require a permanent polling place for early voting to remain open until

8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 p.m.

(2) During the second week of early voting, from 8 a.m. until 6 p.m. , or until 8 p.m. if the county clerk so requires.

(b) On any Saturday that falls within the period for early voting, ~~from~~ *for at least 4 hours between 10 a.m. ~~until~~ and 6 p.m.*

(c) If the county clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as he may establish.

Sec. 37. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; and

(c) Verify the signature of the voter against that contained on the original application to register to vote or facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

(a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. ~~If the ballot is voted by punching a card, the deputy clerk for early voting shall:~~

~~(a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;~~

~~(b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and~~

~~(c) Allow the voter to place his voted ballot in the ballot box.~~

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on ~~each part of~~ the voting receipt;

~~(e) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and~~

~~(d)~~ , if the county clerk uses voting receipts; and

(c) Allow the voter to cast his vote.

~~7.]~~ 6. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 38. NRS 293.3604 is hereby amended to read as follows:

293.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting by personal appearance in an election other than a presidential preference primary election:

1. At the close of each voting day the election board shall:

(a) Prepare and sign a statement for the polling place. The statement must include:

(1) The title of the election;

(2) The number of the precinct or voting district;

(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(4) The number of ballots voted on the mechanical recording device for that day; *and*

(5) The number of signatures in the roster for early voting for that day .

~~]; and~~

~~(6) The number of voting receipts retained pursuant to NRS 293.3585 for that day.]~~

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293.3594.

2. At the close of the last voting day, the county clerk shall deliver to the ballot board for early voting:

(a) The statements for all polling places for early voting;

(b) ~~The voting receipts retained pursuant to NRS 293.3585;~~

~~(e)~~ The voting rosters used for early voting;

~~(d)~~ (c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

~~(e)~~ (d) Any other items as determined by the county clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

(a) Sort the items by precinct or voting district;

(b) Count the number of ballots voted by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a numbered seal. The

official statement of ballots must accompany the items to the central counting place.

Sec. 39. NRS 293.3625 is hereby amended to read as follows:

293.3625 The county clerk shall make a record of the receipt at the central counting place of each sealed container used to transport official ballots pursuant to NRS 293.304, 293.325, ~~293.3602,~~ 293B.330 and 293B.335. The record must include the numbers indicated on the container and its seal pursuant to NRS 293.462.

Sec. 40. NRS 293.363 is hereby amended to read as follows:

293.363 When the polls are closed, the counting board shall prepare to count the ballots voted. The counting procedure must be public and continue without adjournment until completed. If the ballots are paper ballots, ~~for ballots which are voted by punching a card,~~ the counting board shall prepare in the following manner:

1. ~~The pollbooks must be compared and errors corrected until the books agree.~~

~~2.~~ The container that holds the ballots, or the ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to ascertain whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. ~~If on comparison of the count with the pollbook,~~ a majority of the inspectors are of the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the counting board officers and placed in the container or ballot box after the count is completed.

~~3.~~ 2. If the ballots in the container or box are found to exceed in number the number of names *as are indicated* on the ~~pollbooks,~~ *roster as having voted*, the ballots must be replaced in the container or box, and a counting board officer, with his back turned to the container or box, shall draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots when so marked must be immediately sealed in an envelope and returned to the county clerk with the other ballots rejected for any cause.

~~4.~~ 3. When it has been ascertained that ~~the pollbook and~~ the number of ballots ~~agree~~ *agrees* with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy must be made.

Sec. 41. NRS 293.367 is hereby amended to read as follows:

293.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a

reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. The regulations for counting ballots must include provisions that:

(a) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

(b) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

(c) Only devices provided for in this chapter or chapter 293B of NRS may be used in marking ballots.

(d) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

(e) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

~~[(f) In counties where mechanical voting systems are used whereby a vote is cast by punching a card, a superfluous punch into any card does not constitute grounds for rejection of the ballot unless the election board determines that the condition of the ballot justifies its exclusion pursuant to subsection 1.]~~

Sec. 42. NRS 293.3677 is hereby amended to read as follows:

293.3677 1. When counting a vote in an election, if more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

~~2. [Except as otherwise provided in subsection 1, in an election in which a paper ballot is used whereby a vote is cast by placing a cross in the designated square on the paper ballot, a vote on the ballot must not be counted unless indicated by a cross in the designated square.~~

~~3.—Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by punching a card:~~

~~(a) A chip on the card must be counted as a vote if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~(b) A writing or other mark on the card, including, without limitation, a cross, check, tear or scratch, may not be counted as a vote. The remaining votes on such a card must be counted unless the ballot is otherwise disqualified.~~

~~4.] Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:~~

(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and

(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.

~~§~~ 3. The Secretary of State:

(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2 ; ~~3 or 4;~~ and

(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not described in subsection 2, ~~3 or 4,~~ including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

Sec. 43. NRS 293.370 is hereby amended to read as follows:

293.370 1. When all the votes have been ~~tallied,~~ *counted*, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes he received. The number must be expressed in words and figures. The vote for and against any question submitted to the electors must be entered in the same manner.

2. The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

(a) A primary election held in an even-numbered year; or

(b) A general election.

Sec. 44. NRS 293.373 is hereby amended to read as follows:

293.373 If paper ballots ~~or ballots which are voted by punching a card~~ are used:

1. After the ~~tally lists~~ *ballots* have been ~~completed,~~ *counted*, the voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge list, stubs of used ballots, spoiled ballots and unused ballots must be sealed under cover by the counting board officers and addressed to the county clerk.

2. The other ~~pollbooks,~~ *rosters*, tally lists and election board register must be returned to the county clerk.

Sec. 45. NRS 293.384 is hereby amended to read as follows:

293.384 1. ~~Beginning at 8 a.m. on the day~~ *Not earlier than 4 working days* before the ~~day of an~~ election, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw all the ballots from each ballot box or container that holds absent ballots received before that day and ascertain that each box or container has the required number of ballots according to the county clerk's absent voters' record.

2. The counting board or absent ballot central counting board shall count the number of ballots in the same manner as election boards.

Sec. 46. NRS 293.385 is hereby amended to read as follows:

293.385 1. ~~[After 8 a.m. on election day,]~~ *Each day after the initial withdrawal of the ballots pursuant to NRS 293.384 and before the day of the election,* the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw from the appropriate ballot boxes or containers all the ballots received the previous day and ascertain that each box or container has the required number of ballots according to the county clerk's absent voters' ballot record.

2. If any absent ballots are received by the county clerk on election day pursuant to NRS 293.316, the county clerk shall deposit the absent ballots in the appropriate ballot boxes or containers.

3. ~~[After 8 a.m. on election day,]~~ *Not earlier than 4 working days before the election,* the appropriate board shall, ~~[count]~~ in public, *count* the votes cast on the absent ballots.

4. If paper ballots are used, the results of the absent ballot vote in each precinct must be certified and submitted to the county clerk who shall have the results added to the regular votes of the precinct. ~~[If a mechanical voting system is used in which a voter casts his ballot by punching a card which is counted by a computer, the absent ballots may be counted with the regular votes of the precinct.]~~ The returns of absent ballots must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of a voter's ballot. The county clerks shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public in any way information pertaining to the count of absent ballots before the polls close is guilty of a misdemeanor.

Sec. 47. NRS 293.391 is hereby amended to read as follows:

293.391 1. The voted ballots, rejected ballots, spoiled ballots, challenge lists, ~~[voting receipts,]~~ records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the board of county commissioners, be sealed and deposited in the vaults of the county clerk. The tally lists ~~[and pollbooks]~~ collected pursuant to NRS 293B.400 must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after the preservation period. A notice of the destruction must be published by the clerk in at least one newspaper of general circulation in the county not less than 2 weeks before the destruction.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. The ~~pollbooks~~ *rosters* containing the signatures of those persons who voted in the election and the tally lists deposited with the board of county commissioners are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the county clerk.

4. A contestant of an election may inspect all of the material regarding that election which is preserved pursuant to subsection 1 or 2, except the voted ballots.

5. The voted ballots deposited with the county clerk are not subject to the inspection of anyone, except in cases of *a* contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of such judge, body or board.

Sec. 48. NRS 293.440 is hereby amended to read as follows:

293.440 1. Any person who desires a copy of any list of the persons who are registered to vote in any precinct, district or county may obtain a copy by applying at the office of the county clerk and paying therefor a sum of money equal to 1 cent per name on the list, except that one copy of each original and supplemental list for each precinct, district or county must be provided *both* to the state ~~or~~ *central committee of any major political party and to the county central committee of any major political party ~~or~~ *, and to the executive committee of any minor political party upon request, without charge.**

2. Except as otherwise provided in NRS 293.5002 and 293.558, the copy of the list provided pursuant to this section must indicate the address, date of birth, telephone number and the serial number on each application to register to vote. If the county maintains this information in a computer database, the date of the most recent addition or revision to an entry, if made on or after July 1, 1989, must be included in the database and on any resulting list of the information. The date must be expressed numerically in the order of month, day and year.

3. A county may not pay more than 10 cents per folio or more than \$6 per thousand copies for printed lists for a precinct or district.

4. A county which has a system of computers capable of recording information on magnetic tape or diskette shall, upon request of the state *central committee* or county central committee of any major political party or the executive committee of any minor political party which has filed a certificate of existence with the Secretary of State, record for ~~that~~ *both the state central committee and the county central committee* ~~or~~ *of the major political party, if requested, and for the executive committee of the minor political party, if requested,* on magnetic tape or diskette supplied by it:

(a) The list of persons who are registered to vote and the information required in subsection 2; and

(b) Not more than four times per year, as requested by the *state or county* central committee or the executive committee:

(1) A complete list of the persons who are registered to vote with a notation for the most recent entry of the date on which the entry or the latest change in the information was made; or

(2) A list that includes additions and revisions made to the list of persons who are registered to vote after a date specified by the *state or county* central committee or the executive committee.

5. If a political party does not provide its own magnetic tape or diskette, or if a political party requests the list in any other form that does not require printing, the county clerk may charge a fee to cover the actual cost of providing the tape, diskette or list.

6. Any state or county central committee of a major political party, any executive committee of a minor political party or any member or representative of such a central committee or executive committee who receives without charge a list of the persons who are registered to vote in any precinct, district or county pursuant to this section shall not:

(a) Use the list for any purpose that is not related to an election; or

(b) Sell the list for compensation or other valuable consideration.

Sec. 49. NRS 293.443 is hereby amended to read as follows:

293.443 1. Except as otherwise provided in subsection 3, the expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter or chapter 293C of NRS and all expenses necessarily incurred in the preparation for, or the conduct of, any such election is a charge upon the municipality, county, district or State, as the case may be.

2. The county or city clerk may submit the printing of ballots for competitive bidding.

3. If a political party or other entity requests more than 50 applications to register to vote by mail ~~in any 12-month period~~, the clerk may assess a charge, not to exceed the cost of printing the applications . ~~for each application requested in excess of 50.~~

Sec. 50. NRS 293.462 is hereby amended to read as follows:

293.462 1. Each container used to transport official ballots pursuant to NRS 293.304, 293.325, ~~293.3602,~~ 293B.330 and 293B.335 must:

(a) Be constructed of metal or any other rigid material; and

(b) Contain a seal which is placed on the container to ensure detection of any opening of the container.

2. The container and seal must be separately numbered for identification.

Sec. 51. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2 or NRS 295.121 or 295.217, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to

submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in May preceding the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) If the question is an advisory question that proposes a bond, tax, fee or expense, a fiscal note prepared by the governing body in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. *A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county*

or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

4. A county or city clerk ~~may~~:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and fiscal note on the ballot.

Sec. 52. NRS 293.507 is hereby amended to read as follows:

293.507 1. The Secretary of State shall prescribe:

(a) A standard form for applications to register to vote; ~~and~~

(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer ~~[-]~~; and

(c) A standard form for the affidavit described in subsection 5.

2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.

3. Each form for an application to register to vote must include a:

(a) Unique control number assigned by the Secretary of State; and

(b) Receipt which:

(1) Includes a space for a person assisting ~~a voter~~ an applicant in completing the form to enter his name; and

(2) May be retained by the applicant upon completion of the form.

4. The form for an application to register to vote must include:

(a) A line for use by the ~~county clerk~~ applicant to enter:

(1) The number indicated on the ~~voter's~~ applicant's current and valid driver's license issued by the Department of Motor Vehicles, if the ~~voter~~ applicant has such a driver's license;

(2) The last four digits of the ~~voter's~~ applicant's social security number, if the ~~voter~~ applicant does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or

(3) The number issued to the ~~voter~~ applicant pursuant to subsection 5, if the ~~voter~~ applicant does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.

(b) A line on which to enter the address at which the ~~voter~~ applicant actually resides, as set forth in NRS 293.486.

(c) A notice that the ~~voter~~ applicant may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.

(d) A line on which to enter an address at which the ~~voter~~ applicant may receive mail, including, without limitation, a post office box or general delivery.

5. If ~~[-a voter]~~ *an applicant* does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the ~~[-voter]~~ *applicant* shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the ~~[-voter]~~ *applicant* which must be the same number as the unique identifier assigned to the ~~[-voter]~~ *applicant* for purposes of the statewide voter registration list.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5.

Sec. 53. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register:

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar or a voter registration agency, completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his identity and right to vote, and providing proof of his residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; or

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237.

↪ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083.

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name, and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; or

(d) At any voter registration agency.

↪ If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. ~~[An]~~ *Except as otherwise provided in subsection 7, an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.*

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote ~~[s]~~ pursuant to NRS 293.485, he shall issue a voter registration card to the voter which contains:

- (a) The name, address, political affiliation and precinct number of the voter;
- (b) The date of issuance; and
- (c) The signature of the county clerk.

7. *If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if he believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk whether:*

- (a) The application to register to vote of the elector is complete and the elector is eligible to vote pursuant to NRS 293.485; and*
- (b) The county clerk should proceed to process the application to register to vote.*

➤ *If the District Attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.*

Sec. 54. NRS 293.547 is hereby amended to read as follows:

293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He is registered to vote in the same precinct ~~for district~~ as the person whose right to vote is challenged; ~~for~~ and

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall:

- (a) File the challenge in the registrar of voters' register and:

(1) In counties where records of registration are not kept by computer, he shall attach a copy of the challenge to the challenged registration in the election board register.

(2) In counties where records of registration are kept by computer, he shall have the challenge printed on the computer entry for the challenged registration and add a copy of it to the election board register.

(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing him of the challenge. If the person fails to respond or appear to vote within the required time, the county clerk shall cancel his registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.

(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.

6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.

Sec. 55. NRS 293B.032 is hereby amended to read as follows:

293B.032 "Mechanical recording device" means a device ~~[-~~

~~1. Which] which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on. [- or~~

~~2. To which a list of offices and candidates and the statements of measures to be voted on may be affixed and into which a card may be inserted so that the votes cast for each candidate and for or against each measure may be indicated by punching the card with reference to the list.]~~

Sec. 56. NRS 293B.033 is hereby amended to read as follows:

293B.033 "Mechanical voting system" means a system of voting whereby a voter may cast his vote:

1. On a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or

2. By ~~[punching a card or]~~ marking a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer.

Sec. 57. NRS 293B.084 is hereby amended to read as follows:

293B.084 1. A mechanical recording device which directly records votes electronically must:

(a) Bear a number which identifies that mechanical recording device.

(b) Be equipped with a storage device which:

(1) Stores the ballots voted on the mechanical recording device;

(2) Can be removed from the mechanical recording device for the purpose of transporting the ballots stored therein to a central counting place; and

(3) Bears the same number as the mechanical recording device.

(c) Be designed in such a manner that voted ballots may be stored within the mechanical recording device and the storage device required pursuant to paragraph (b) at the same time.

(d) Be capable of providing a record printed on paper of:

(1) Each ballot voted on the mechanical recording device; and

(2) The total number of votes recorded on the mechanical recording device for each candidate and for or against each measure.

2. The paper record described in paragraph (d) of subsection 1 must ~~be~~:

~~(a) Be printed and made available for a manual audit, as necessary; and~~

~~(b) Be printed and serve as an official record for a recount, as necessary.~~

Sec. 58. NRS 293B.103 is hereby amended to read as follows:

293B.103 ~~{1. If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(a) The cards to be used must have two detachable stubs.~~

~~(b) Each of the stubs attached to a particular card must bear the number of that card.~~

~~(c) One of the stubs must be detached and given to the voter when he returns his voted ballot, and the other stub must be retained by the election board.~~

~~2. If a mechanical voting system is used whereby votes are directly recorded electronically ~~be~~:~~

~~(a) A, a voting receipt ~~[which has two parts must]~~ may be used.~~

~~(b) Each part of the voting receipt must bear the same number for identification.~~

~~(c) One part of the voting receipt must be given to the voter when he votes and the other part of the voting receipt must be retained by the election board.~~

Sec. 59. NRS 293B.155 is hereby amended to read as follows:

293B.155 1. The tests prescribed by NRS 293B.150 and 293B.165 must be conducted by processing a preaudited group of logic and accuracy test ballots so ~~[punched,]~~ voted or marked as to record a predetermined number of valid votes for each candidate and on each measure, and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the mechanical recording device or the automatic tabulating equipment and programs to reject those votes.

2. If any error is detected, the cause therefor must be ascertained and corrected and an errorless count must be made before the mechanical recording device or the automatic tabulating equipment and programs are approved.

3. When satisfied with the accuracy of the mechanical recording device or automatic tabulating equipment and computer program, the accuracy certification board and the county or city clerk shall date and sign all reports, and seal the program, if any, and the reports and all test material in an appropriate container. The container must be kept sealed by the clerk.

4. Except as otherwise provided in this subsection, the contents of such a sealed container are not subject to the inspection of anyone except in the case of a contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of that judge, body or board. For the period set forth in NRS 293.413 during which a candidate may file a statement of contest, the results of the test must be made available in the clerk's office for public inspection.

Sec. 60. NRS 293B.300 is hereby amended to read as follows:

293B.300 1. In a primary election, a member of the election board for a precinct shall issue each partisan voter a ballot which contains a distinctive code associated with the major political party of the voter and on which is clearly printed the name of the party.

2. If a mechanical voting system is used in a primary election whereby votes are directly recorded electronically, a member of the election board shall, *if the clerk uses voting receipts*, in addition to the ballot described in subsection 1, issue each partisan voter a voting receipt on which is clearly printed the name of the major political party of the voter.

3. The member of the election board shall direct the partisan voter to a mechanical recording device containing the list of offices and candidates arranged for the voter's major political party in the manner provided in NRS 293B.190.

Sec. 61. NRS 293B.305 is hereby amended to read as follows:

293B.305 Unless a major political party allows a nonpartisan voter to vote for its candidates:

1. In a primary election, a member of the election board for a precinct shall issue each nonpartisan voter a ballot with a distinctive code and printed designation identifying it as a nonpartisan ballot.

2. If a mechanical voting system is used in a primary election whereby votes are directly recorded electronically, a member of the election board shall, *if the clerk uses voting receipts*, in addition to the ballot described in subsection 1, issue the nonpartisan voter a voting receipt with a printed designation identifying it as a nonpartisan ballot.

3. The member of the election board shall:

(a) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates setting forth only the nonpartisan ballot; *or*

(b) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates arranged for a partisan ballot, instruct the voter to vote only the nonpartisan section of the list and advise

the voter that any votes he may cast in the partisan section will not be counted. ~~} or~~

~~(c) Issue a nonpartisan ballot attached to a sheet of foam plastic or similar backing material, a punching instrument, a sample nonpartisan ballot and an instruction sheet to the nonpartisan voter and instruct him to punch his ballot by reference to the sample ballot. }~~

Sec. 62. NRS 293B.330 is hereby amended to read as follows:

293B.330 1. Upon closing of the polls, the election board shall:

(a) Secure all mechanical recording devices against further voting.
 (b) ~~If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(1) Count the number of ballots in the ballot boxes.
 (2) Account for all ballots on the statement of ballots.
 (3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.~~

~~(c) If a mechanical voting system is used whereby votes are directly recorded electronically:~~

(1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

(2) Count the number of ballots voted at the polling place.

(3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.

~~(d) (c) Record the number of voters on a form provided by the county clerk.~~

2. If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the county clerk.

3. After closing the polls, the election board shall:

(a) Compare the quantity of the supplies furnished by the county clerk with the inventory of those supplies; and

(b) Note any shortages.

4. The county clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 63. NRS 293B.365 is hereby amended to read as follows:

293B.365 The central ballot inspection board shall:

1. Receive the ballots in sealed containers.
2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the ~~{ballots or}~~ storage devices which store the ballots voted on mechanical recording devices which directly record votes electronically.
3. Register the numbers of ballots by precinct.
4. Deliver any damaged *paper* ballots to the ballot duplicating board . ~~{ if the ballots were voted by punching a card. }~~
5. Receive duplicates of damaged *paper* ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct . ~~{ if the ballots were voted by punching a card. }~~
6. Place each damaged original *paper* ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct . ~~{ if the ballot was voted by punching a card. }~~
7. Reject any *paper* ballot that has been marked in a way that identifies the voter.
8. Place each rejected *paper* ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot . ~~{ if the ballot was voted by punching a card. }~~

Sec. 64. NRS 293B.375 is hereby amended to read as follows:

293B.375 ~~{If ballots which are voted by punching a card are used, the}~~
The ballot duplicating board shall:

1. Receive damaged ballots ~~{}~~ pursuant to NRS 293B.365, including ballots which have been torn, bent or mutilated.
2. ~~{Receive cards with incompletely punched chips.}~~
3. Prepare on a distinctly colored, serially numbered ballot marked "duplicate" an exact copy of each damaged ballot.
4. ~~{In the case of a card with an incompletely punched chip:~~
 - ~~{(a) Remove the incompletely punched chip if:~~
 - ~~{(1) The chip has at least one corner that is detached from the card; or~~
 - ~~{(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card; or~~
 - ~~{(b) Duplicate the card without punching the location of the incompletely punched chip if:~~
 - ~~{(1) The chip does not have at least one corner that is detached from the card; and~~
 - ~~{(2) The fibers of paper on no edge of the chip are broken in a way that permits unimpeded light to be seen through the card.}~~
5. 3. Record the serial number of the duplicate ballot on the damaged original ballot and return the damaged and duplicate ballots to the appropriate ballot inspection board.
6. 4. Hold aside the duplicated ballots for counting after all other ballots are counted if this procedure is directed by the county clerk.

Sec. 65. NRS 293C.220 is hereby amended to read as follows:

293C.220 1. The city clerk shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the city as provided in NRS 293.225, 293.227, 293C.227 to ~~[293C.250,]~~ 293C.245, inclusive, and 293C.382 . ~~[, and shall conclude those duties not later than 31 days before the election.]~~ No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the city clerk, the chief law enforcement officer of the city shall:

(a) Appoint an officer for each polling place in the city and for the central election board or the absent ballot central counting board; or

(b) Deputize, as an officer for the election, an election board officer for each polling place and for the central election board or the absent ballot central counting board. The deputized officer may not receive any additional compensation for the services he provides as an officer during the election for which he is deputized.

➔ Officers so appointed and deputized shall preserve order during hours of voting and attend the closing of the polls.

2. The city clerk may appoint a trainee for the position of election board officer as set forth in NRS 293C.222.

Sec. 66. NRS 293C.230 is hereby amended to read as follows:

293C.230 ~~[1. In precincts or districts in a city where there are less than 200 registered voters and paper ballots are used, the election board shall perform all duties required from the time of preparing for the opening of the polls through delivering the supplies and result of votes cast to the city clerk.~~

~~2.]~~ Except as otherwise provided in NRS 293C.240, one election board must be appointed by the city clerk for all mailing precincts within the city and must be designated the central election board. The city clerk shall deliver the mailed ballots to that board in his office and the board shall count the votes on those ballots in the manner required by law.

Sec. 67. NRS 293C.256 is hereby amended to read as follows:

293C.256 An absent ballot for a city election or a ballot for a city election voted by a voter who resides in a mailing precinct must be voted on a paper ballot . ~~[for a ballot which is voted by punching a card.]~~

Sec. 68. NRS 293C.261 is hereby amended to read as follows:

293C.261 1. A ballot prepared for use in a city election must be dated and marked in such a manner as to indicate clearly at which city election the ballot will be used.

2. If a ballot includes a detachable stub, both the ballot and the stub must include the date of the city election and indicate clearly at which city election the ballot will be used.

3. If a ballot includes a voting receipt , ~~[which has two parts, each part of]~~ the voting receipt must include the date of the city election and indicate clearly at which city election the ~~[ballot will be used.]~~ voter cast his ballot.

Sec. 69. NRS 293C.275 is hereby amended to read as follows:

293C.275 ~~{1.}~~ A registered voter who applies to vote must state his name to the election board officer in charge of the election board register, and the officer shall immediately announce the name and take the registered voter's signature. ~~{After a registered voter is properly identified at a polling place where paper ballots are used, one ballot correctly folded, must be given to the voter and the number of the ballot must be written by an election board officer upon the pollbook, opposite the name of the registered voter receiving the ballot.~~

~~2. In pollbooks in which the names of the voters have been entered, election officers may indicate the application to vote without writing the name.~~

Sec. 70. NRS 293C.285 is hereby amended to read as follows:

293C.285 ~~{1. Except as otherwise provided in subsection 2:~~

~~(a) Any voter who spoils his ballot may return the spoiled ballot to the election board and receive another in its place.~~

~~(b) The election board officers shall indicate in the pollbook that the ballot is spoiled and shall enter the number of the ballot issued in its place.~~

~~(c) Each spoiled ballot returned must be cancelled by writing the word "Cancelled" across the back of the ballot. A spoiled paper ballot must be cancelled without unfolding it.~~

~~(d) A record must be made of those cancelled ballots at the closing of the polls and before counting. The ballots must be placed in a separate envelope and returned to the city clerk with the election supplies.~~

~~2. If ballots that are voted on a} A mechanical recording device which directly records {the} votes electronically {are used,} must allow the voter {must be able} to change his vote before the mechanical recording device permanently records that vote.~~

Sec. 71. NRS 293C.295 is hereby amended to read as follows:

293C.295 1. If a person is successfully challenged on the ground set forth in paragraph (a) of subsection 2 of NRS 293C.292 or if a person refuses to provide an affirmation pursuant to NRS 293C.525, the election board shall instruct the voter that he may vote only at the special polling place in the manner set forth in this section.

2. The city clerk shall maintain at least one special polling place at such locations as he deems necessary during each election. The ballots voted at the special polling place must be kept separate from the ballots of voters who have not been so challenged or who have provided an affirmation pursuant to NRS 293C.525 in ~~{:~~

~~(a) A special ballot box if the ballots are paper ballots or ballots that are voted by punching a card; or~~

~~(b) A} a special sealed container if the ballots are ballots that are voted on a mechanical recording device which directly records the votes electronically.~~

3. A person who votes at a special polling place may place his vote only for the following offices and questions:

- (a) All officers for whom all voters in the city may vote; and
- (b) Questions that have been submitted to all voters of the city.

4. The ballots voted at the special polling place must be counted when other ballots are counted and ~~;~~

~~(a) If the ballots are paper ballots or ballots that are voted by punching a card, maintained in a separate ballot box; or~~

~~(b) If, if the ballots are ballots that are voted on a mechanical recording device that directly records the votes electronically, maintained in a separate sealed container ~~;~~~~

~~↔~~ until any contest of election is resolved or the date for filing a contest of election has passed, whichever is later.

Sec. 72. NRS 293C.322 is hereby amended to read as follows:

293C.322 1. Except as otherwise provided in subsection 2, if the request for an absent ballot is made by mail or facsimile machine, the city clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail *or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot*, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail if the absent voter is in a foreign country but not on a military base:

(a) ~~Except as otherwise provided in paragraph (b):~~

~~(1) An absent ballot;~~

~~{(2)} (b) A return envelope;~~

~~{(3)} Supplies for marking the ballot;~~

~~(4) (c) An envelope or similar device into which the ballot is inserted~~

to ensure its secrecy; and

~~{(5)} Instructions.~~

~~(b) In those cities using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(1) A card attached to a sheet of foam plastic or similar backing material;~~

~~(2) A return envelope;~~

~~(3) A punching instrument;~~

~~(4) A sample ballot;~~

~~(5) An envelope or similar device into which the card is inserted to ensure its secrecy; and~~

~~{(6)} (d) Instructions.~~

2. If the city clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the city clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter shall mail his absent ballot to the city clerk.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2.

5. Before depositing a ballot with the United States Postal Service or sending a ballot by facsimile machine, the city clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 73. NRS 293C.325 is hereby amended to read as follows:

293C.325 1. Except as otherwise provided in ~~subsections~~ *subsection 2*, ~~and 3,~~ when an absent ballot is returned by a registered voter to the city clerk through the mails ~~or in person~~, and record thereof is made in the absent ballot record book, the city clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. ~~If the city clerk has appointed~~ an absent ballot central counting board ~~the city clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope against the original signature of the voter on the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. At the end of each day before election day, the city clerk may remove the ballots from each ballot box and neatly stack the ballots in a container. Except as otherwise provided in subsection 3, on election day the city clerk shall deliver the ballot box and, if applicable, each container to the absent ballot counting board to be counted.~~

~~3.—If the city uses a mechanical voting system, the city clerk shall, upon receipt of each absent voter's ballot, make a record of the return and} has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mails or in person, the county clerk shall check the signature on the return envelope against the original signature of the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the city clerk at all times. At the end of each day before election day, the city clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. [Except as otherwise provided in this subsection, on election day the city clerk shall deliver the ballot box and each container, if applicable, to the central counting place. If the city uses a mechanical voting system and the city clerk has appointed an absent ballot central counting board, the city clerk~~

~~may, not~~ Not earlier than 4 working days before the election, *the county clerk shall* deliver the ballots to the absent ballot central counting board to be processed and prepared for ~~tabulation~~ *counting* pursuant to the procedures established by the Secretary of State ~~[-]~~ *to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293C.267 or 293C.297.*

Sec. 74. NRS 293C.330 is hereby amended to read as follows:

293C.330 1. Except as otherwise provided in NRS 293C.315 and subsection 2 of NRS 293C.322 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it ~~[-, if it is a paper ballot, or punch it, if the ballot is voted by punching a card,]~~ in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the city clerk, he must mark ~~for punch~~ the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the city clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the city clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

(a) Provides satisfactory identification;

(b) Is a registered voter who is otherwise entitled to vote; and

(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293C.317, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the city clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 75. NRS 293C.332 is hereby amended to read as follows:

293C.332 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the city clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293C.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope, must be called and checked as if the voter were voting in person;
2. The signature on the back of the return envelope must be compared with that on the original application to register to vote;
3. If the board determines that the absent voter is entitled to cast his ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot and, if the numbers are the same, the ballot deposited in the regular ballot box; and
4. The election board officers shall mark in the ~~{pollbook}~~ *roster* opposite the name of the voter the word "Voted."

Sec. 76. NRS 293C.347 is hereby amended to read as follows:

293C.347 1. The city clerk shall:

- (a) Make certain of the names and addresses of all voters registered to vote in mailing precincts and absent ballot mailing precincts;
- (b) Enroll the name and address of each voter found eligible to vote in those precincts in the mailing precinct record book;
- (c) Mark the number of the ballot on the return envelope; and
- (d) Mail the ballot to the registered voter.

2. ~~{Except as otherwise provided in subsection 3, the}~~ *The* ballot must be accompanied by:

- (a) ~~{Supplies for marking the ballot;~~
- ~~{b)}~~ A return envelope;
- ~~{c)}~~ *(b)* An envelope or similar device into which the ballot is inserted to ensure its secrecy;
- ~~{d)}~~ *(c)* A sample ballot; and
- ~~{e)}~~ *(d)* Instructions regarding the manner of marking and returning the ballot.

~~{3.—In those cities using a mechanical voting system whereby a vote is cast by punching a card, the ballot must be accompanied by:~~

- ~~{a)—A sheet of foam plastic or similar backing material attached to the card;~~
- ~~{b)—A punching instrument;~~
- ~~{c)—A return envelope;~~
- ~~{d)—An envelope or similar device into which the card is inserted to ensure its secrecy;~~
- ~~{e)—A sample ballot; and~~
- ~~{f)—Instructions concerning the manner of punching and returning the card.}~~

Sec. 77. NRS 293C.350 is hereby amended to read as follows:

293C.350 Upon receipt of a mailing ballot from the city clerk, the registered voter must:

1. ~~Except as otherwise provided in subsection 2:~~
 - ~~(a)~~ Immediately after opening the envelope, mark and fold the ballot;
 - ~~(b)~~ 2. Place the ballot in the return envelope;
 - ~~(c)~~ 3. Affix his signature on the back of the envelope; and
 - ~~(d)~~ 4. Mail or deliver the envelope to the city clerk.
- ~~2. In those cities using a mechanical voting system whereby a vote is cast by punching a card:~~

- ~~(a) Immediately after opening the envelope, punch the card;~~
- ~~(b) Place the unfolded card in the return envelope;~~
- ~~(c) Affix his signature on the back of the envelope; and~~
- ~~(d) Mail or deliver the envelope to the city clerk.~~

Sec. 78. NRS 293C.356 is hereby amended to read as follows:

293C.356 1. If a request is made to vote early by a registered voter in person, the city clerk shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of the clerk's office and returned to the clerk. ~~If the ballot is a paper ballot or a ballot which is voted by punching a card, the clerk shall follow the same procedure as in the case of absent ballots received by mail.~~

2. On the dates for early voting prescribed in NRS 293C.3568, each city clerk shall provide a voting booth, with suitable equipment for voting, on the premises of his office for use by registered voters who are issued ballots for early voting in accordance with this section.

Sec. 79. NRS 293C.3568 is hereby amended to read as follows:

293C.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary city election or general city election, and extends through the Friday before election day, Sundays and holidays excepted.

2. The city clerk may:

- (a) Include any Sunday or holiday that falls within the period for early voting by personal appearance.
- (b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

- (a) On Monday through Friday:
 - (1) During the first week of early voting, from 8 a.m. until 6 p.m.
 - (2) During the second week of early voting, from 8 a.m. until 6 p.m. , or until 8 p.m. if the city clerk so requires.
- (b) On any Saturday that falls within the period for early voting, ~~from~~ *for at least 4 hours between 10 a.m. ~~until~~ and 6 p.m.*

(c) If the city clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as he may establish.

Sec. 80. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

- (a) Determine that the person is a registered voter in the county;
- (b) Instruct the voter to sign the roster for early voting; and
- (c) Verify the signature of the voter against that contained on the original application to register to vote or facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

- (a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;
- (b) The voter's precinct or voting district number; and
- (c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. ~~If the ballot is voted by punching a card, the deputy clerk for early voting shall:~~

- ~~(a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;~~
- ~~(b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and~~
- ~~(c) Allow the voter to place his voted ballot in the ballot box.~~

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

- (a) Prepare the mechanical recording device for the voter;
- (b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on ~~each part of~~ the voting receipt ~~;~~
- ~~(c) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and~~
- ~~(d) , if the city clerk uses voting receipts; and~~
- (c) Allow the voter to cast his vote.

~~7.~~ 6. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 81. NRS 293C.3604 is hereby amended to read as follows:

293C.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting by personal appearance in an election other than a presidential preference primary election:

1. At the close of each voting day the election board shall:

- (a) Prepare and sign a statement for the polling place. The statement must include:

- (1) The title of the election;
- (2) The number of the precinct or voting district;
- (3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;
- (4) The number of ballots voted on the mechanical recording device for that day; *and*
- (5) The number of signatures in the roster for early voting for that day .
[~~and~~
- ~~(6) The number of voting receipts retained pursuant to NRS 293C.3585 for that day.]~~

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293C.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293C.3594.

2. At the close of the last voting day, the city clerk shall deliver to the ballot board for early voting:

- (a) The statements for all polling places for early voting;
- (b) ~~[The voting receipts retained pursuant to NRS 293C.3585;~~
- ~~(c)]~~ The voting rosters used for early voting;
- ~~[(d)]~~ (c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

~~[(e)]~~ (d) Any other items as determined by the city clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

- (a) Sort the items by precinct or voting district;
- (b) Count the number of ballots voted by precinct or voting district;
- (c) Account for all ballots on an official statement of ballots; and
- (d) Place the items in the container provided to transport those items to the central counting place and seal the container with a number seal. The official statement of ballots must accompany the items to the central counting place.

Sec. 82. NRS 293C.3615 is hereby amended to read as follows:

293C.3615 The city clerk shall make a record of the receipt at the central counting place of each sealed container used to transport official ballots pursuant to NRS 293C.295, 293C.325, ~~[293C.3602.]~~ 293C.630 and 293C.635. The record must include the numbers indicated on the container and its seal pursuant to NRS 293C.700.

Sec. 83. NRS 293C.362 is hereby amended to read as follows:

293C.362 When the polls are closed, the counting board shall prepare to count the ballots voted. The counting procedure must be public and continue without adjournment until completed. If the ballots are paper ballots , ~~[or ballots that are voted by punching a card.]~~ the counting board shall prepare in the following manner:

1. ~~{The pollbooks must be compared and errors corrected until the books agree.~~

~~2.}~~ The container that holds the ballots, or the ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to determine whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. If ~~{, on comparison of the count with the pollbook,}~~ a majority of the inspectors are of the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the counting board officers and placed in the container or ballot box after the count is completed.

~~3.}~~ 2. If the ballots in the container or box are found to exceed the number of names *as are indicated* on the ~~{pollbooks,}~~ *roster as having voted*, the ballots must be replaced in the container or box and a counting board officer shall, with his back turned to the container or box, draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots when so marked must be immediately sealed in an envelope and returned to the city clerk with the other ballots rejected for any cause.

~~4.}~~ 3. When it has been determined that the ~~{pollbook and the}~~ number of ballots ~~{agree}~~ *agrees* with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy must be made.

Sec. 84. NRS 293C.367 is hereby amended to read as follows:

293C.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. Regulations for counting ballots must include provisions that:

(a) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

(b) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

(c) Only devices provided for in this chapter, chapter 293 or 293B of NRS may be used in marking ballots.

(d) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

(e) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

~~{(f) In cities where mechanical voting systems are used whereby a vote is cast by punching a card, a superfluous punch into any card does not constitute grounds for rejection of the ballot unless the election board determines that the condition of the ballot justifies its exclusion pursuant to subsection 1.}~~

Sec. 85. NRS 293C.369 is hereby amended to read as follows:

293C.369 1. When counting a vote in an election, if more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

2. ~~{Except as otherwise provided in subsection 1, in an election in which a paper ballot is used whereby a vote is cast by placing a cross in the designated square on the paper ballot, a cross in the designated square must be counted as a vote.~~

3. ~~Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by punching a card:~~

~~(a) A chip on the card must be counted as a vote if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~(b) A writing or other mark on the card, including, without limitation, a cross, check, tear or scratch, may not be counted as a vote. The remaining votes on such a card must be counted unless the ballot is otherwise disqualified.~~

4. ~~Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:~~

~~(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and~~

~~(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.~~

~~{5.} 3. The Secretary of State:~~

~~(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2 ; {3 or 4;} and~~

~~(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not described in subsection 2, {3 or 4;} including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.~~

Sec. 86. NRS 293C.372 is hereby amended to read as follows:

293C.372 When all the votes have been ~~tallied,~~ *counted*, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes he received. The number must be expressed in words and figures. The vote for and against any question submitted to the electors must be entered in the same manner.

Sec. 87. NRS 293C.375 is hereby amended to read as follows:

293C.375 If paper ballots ~~for ballots which are voted by punching a card~~ are used:

1. After the ~~tally lists~~ *ballots* have been ~~completed,~~ *counted*, the voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge list, stubs of used ballots, spoiled ballots and unused ballots must be sealed under cover by the counting board officers and addressed to the city clerk.

2. The other ~~pollbooks,~~ *rosters*, tally lists and election board register must be returned to the city clerk.

Sec. 88. NRS 293C.382 is hereby amended to read as follows:

293C.382 1. ~~Beginning at 8 a.m. on the day before the day of an~~ *Not earlier than 4 working days before the* election, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw the ballots from each ballot box or container that holds absent ballots received before that day and determine whether each box or container has the required number of ballots according to the city clerk's absent voters' record.

2. The counting board or absent ballot central counting board shall count the number of ballots in the same manner as election boards.

Sec. 89. NRS 293C.385 is hereby amended to read as follows:

293C.385 1. ~~After 8 a.m. on election day,~~ *Each day after the initial withdrawal of the ballots pursuant to NRS 293C.382 and before the day of the election*, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw from the appropriate ballot boxes or containers all the ballots received the previous day and determine whether each box or container has the required number of ballots according to the city clerk's absent voters' ballot record.

2. If any absent ballots are received by the city clerk on election day pursuant to NRS 293C.317, the city clerk shall deposit the absent ballots in the appropriate ballot boxes or containers.

3. ~~After 8 a.m. on election day,~~ *Not earlier than 4 working days before the election*, the appropriate board shall, ~~count~~ in public, *count* the votes cast on the absent ballots.

4. If paper ballots are used, the results of the absent ballot vote in each precinct must be certified and submitted to the city clerk, who shall have the results added to the regular votes of the precinct. ~~If a mechanical voting system is used in which a voter casts his ballot by punching a card that is counted by a computer, the absent ballots may be counted with the regular~~

~~votes of the precinct.]~~ The returns of absent ballots must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of a voter's ballot. The city clerks shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public information relating to the count of absent ballots before the polls close is guilty of a misdemeanor.

Sec. 90. NRS 293C.390 is hereby amended to read as follows:

293C.390 1. The voted ballots, rejected ballots, spoiled ballots, challenge lists, ~~voting receipts,~~ records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the governing body of the city, be sealed and deposited in the vaults of the city clerk. The tally lists ~~and pollbooks~~ collected pursuant to NRS 293B.400 must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after that period. A notice of the destruction must be published by the city clerk in at least one newspaper of general circulation in the city, or if no newspaper is of general circulation in that city, in a newspaper of general circulation in the nearest city, not less than 2 weeks before the destruction of the materials.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. The ~~pollbooks~~ *rosters* containing the signatures of those persons who voted in the election and the tally lists deposited with the governing body of the city are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the city clerk.

4. A contestant of an election may inspect all of the material relating to that election which is preserved pursuant to subsection 1 or 2, except the voted ballots.

5. The voted ballots deposited with the city clerk are not subject to the inspection of any person, except in *cases of* a contested election, and only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of the judge, body or board.

Sec. 91. NRS 293C.620 is hereby amended to read as follows:

293C.620 1. At each election a member of the election board for a precinct shall issue each voter a ballot.

2. If a mechanical voting system is used in a primary city election whereby votes are directly recorded electronically, a member of the election

board shall, *if the clerk uses voting receipts*, in addition to the ballot described in subsection 1, issue the voter a voting receipt.

3. The member of the election board shall ~~{}:~~

~~(a) Direct} direct the voter to a mechanical recording device containing a list of offices and candidates. ~~{}; or~~~~

~~(b) Issue a ballot attached to a sheet of foam plastic or similar backing material, a punching instrument, a sample ballot and an instruction sheet to the voter and instruct him to punch his ballot by reference to the sample ballot.}~~

Sec. 92. NRS 293C.630 is hereby amended to read as follows:

293C.630 1. Upon closing of the polls, the election board shall:

(a) Secure all mechanical recording devices against further voting.

~~(b) If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(1) Count the number of ballots in the ballot boxes.~~

~~(2) Account for all ballots on the statement of ballots.~~

~~(3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.~~

~~(c)}~~ If a mechanical voting system is used whereby votes are directly recorded electronically:

(1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

(2) Count the number of ballots voted at the polling place.

(3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.

~~{{(d)}~~ (c) Record the number of voters on a form provided by the city clerk.

2. If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the city clerk.

3. After closing the polls, the election board shall:

(a) Compare the quantity of the supplies furnished by the city clerk with the inventory of those supplies; and

(b) Note any shortages.

4. The city clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 93. NRS 293C.645 is hereby amended to read as follows:

293C.645 The central ballot inspection board shall:

1. Receive the ballots in sealed containers.
2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the ~~ballots or~~ storage devices that store the ballots voted on mechanical recording devices that directly record votes electronically.
3. Register the numbers of ballots by precinct.
4. Deliver any damaged *paper* ballots to the ballot duplicating board . ~~if the ballots were voted by punching a card.~~
5. Receive duplicates of damaged *paper* ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct . ~~if the ballots were voted by punching a card.~~
6. Place each damaged original *paper* ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct . ~~if the ballot was voted by punching a card.~~
7. Reject any *paper* ballot that has been marked in a way that identifies the voter.
8. Place each rejected *paper* ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot . ~~if the ballot was voted by punching a card.~~

Sec. 94. NRS 293C.655 is hereby amended to read as follows:

293C.655 ~~if ballots that are voted by punching a card are used, the~~ The ballot duplicating board shall:

1. Receive damaged ballots ~~if~~ pursuant to NRS 293C.645, including ballots that have been torn, bent or mutilated.
2. ~~Receive cards with incompletely punched chips.~~
3. Prepare on a distinctly colored, serially numbered ballot marked "duplicate" an exact copy of each damaged ballot.
4. ~~In the case of a card with an incompletely punched chip:~~
 - ~~(a) Remove the incompletely punched chip if:~~
 - ~~(1) The chip has at least one corner that is detached from the card; or~~
 - ~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card; or~~
 - ~~(b) Duplicate the card without punching the location of the incompletely punched chip if:~~
 - ~~(1) The chip does not have at least one corner that is detached from the card; and~~
 - ~~(2) The fibers of paper on no edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~5.~~ 3. Record the serial number of the duplicate ballot on the damaged original ballot and return the damaged and duplicate ballots to the appropriate ballot inspection board.

~~6.~~ 4. Hold aside the duplicated ballots for counting after all other ballots are counted if this procedure is directed by the city clerk.

Sec. 95. NRS 293C.700 is hereby amended to read as follows:

293C.700 1. Each container used to transport official ballots pursuant to NRS 293C.295, 293C.325, ~~293C.3602,~~ 293C.630 and 293C.635 must:

- (a) Be constructed of metal or any other rigid material; and
- (b) Contain a seal which is placed on the container to ensure detection of any opening of the container.

2. The container and seal must be separately numbered for identification.

Sec. 96. NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 233B.0665 *or* 293.247 or where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in

NRS 439B.225 and it has adopted a permanent regulation relating to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

Sec. 97. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.050, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 [~~213.153 and 293B.210,~~ and 213.153,

↪ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account.

For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board.

Sec. 98. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 ~~[, 213.153 and 293B.210,]~~ and 213.153,

↳ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board.

Sec. 99. NRS 539.143 is hereby amended to read as follows:

539.143 In all ~~[pollbooks]~~ *rosters* and lists of registered electors prepared for any election under this chapter, the names of electors who have registered or reregistered for such election shall be distinguished from the names of those who voted at the last preceding district election but who have not so registered or reregistered, by the letter "R" enclosed in parentheses placed before each of the names of the former and the omission thereof in connection with the names of the latter.

Sec. 100. Section 8 of the Elko Convention and Visitors Authority Act, being chapter 227, Statutes of Nevada 1975, as last amended by chapter 70, Statutes of Nevada 2001, at page 516, is hereby amended to read as follows:

Sec. 8. 1. The Authority must be governed by a Board of Governors consisting of five members appointed or elected as follows:

(a) One member appointed by the Board of Supervisors of the City of Elko, who must be a current member of the Board of Supervisors;

(b) One member appointed by the Board of County Commissioners of Elko County, who must be a current member of the Board of County Commissioners;

(c) Two members elected at large, who must reside within the City of Elko and within the boundaries of the Authority; and

(d) One member elected at large, who must reside outside the City of Elko but within the boundaries of the Authority.

2. Subject to the provisions of subsection 3, the terms of those members appointed pursuant to paragraphs (a) and (b) of subsection 1 are coterminous with their respective terms in their specified elective offices.

3. Those members appointed pursuant to paragraph (a) or (b) of subsection 1 may be removed by the appointing board with or without cause.

4. Any vacancy occurring among the members of the Board appointed pursuant to paragraph (a) or (b) of subsection 1 must be filled promptly by the Board which appointed the member whose position has become vacant. Any vacancy occurring among the members of the Board elected pursuant to paragraph (c) or (d) of subsection 1 must be filled promptly by appointment by the Board of County Commissioners of Elko County. The member appointed by the Board of County Commissioners to fill a vacancy in a position created pursuant to paragraph (c) or (d) must not be a member of the Board of County Commissioners but must meet the residency requirements for the vacant position.

5. If a member elected pursuant to paragraph (c) or (d) of subsection 1 or appointed to fill a vacancy in a position created pursuant to one of those paragraphs ceases to reside in the area specified in the paragraph under which he was elected or appointed, he is automatically disqualified from serving on the Board. A disqualified member's position must be filled by the prompt appointment of a successor in the manner specified in subsection 4.

6. The term of a person appointed to fill a vacancy is the unexpired term of the member he replaces.

7. A general authority election must be held in conjunction with the general election in 1992 and with such elections every 2 years thereafter. The three members of the Board described in paragraphs (c) and (d) of subsection 1 must be elected at the general authority election

in 1992. The offices created pursuant to those paragraphs are nonpartisan. Each candidate for one of these offices must file a declaration of candidacy with the County Clerk not earlier than January 1 preceding the election and not later than 5 p.m. on the third Friday in August of the year of the election. *In any general authority election, if, at 5 p.m. on the third Friday in August, only one candidate has filed a declaration of candidacy for one of the offices created pursuant to paragraph (c) or (d) of subsection 1, that candidate must be declared elected to that office and no election may be held for that office.* The terms of office of the members described in paragraphs (c) and (d) of subsection 1 are 4 years, except that, the initial term of office of one of the members described in paragraph (c) of subsection 1 is 2 years. The County Clerk shall designate the seat which will have an initial term of 2 years before any candidate files a declaration of candidacy for the election. The period for registering to vote in the general authority election must be closed on the 30th calendar day preceding the date of the election. All persons who are qualified to vote at general elections in this State and reside within the boundaries of the authority upon the date of the close of registration are entitled to vote at the general authority election. Except as otherwise provided in this subsection, a general authority election must be carried out in the same manner as provided for other general elections in title 24 of NRS.

Sec. 101. NRS 293.075, 293.12756, 293.233, 293.245, 293.293, 293.300, 293.359, 293.3598, 293.3602, 293.447, 293B.160, 293B.210, 293B.325, 293C.235, 293C.250, 293C.280, 293C.287, 293C.359, 293C.3598 and 293C.3602 are hereby repealed.

Sec. 102. 1. This section and sections 1 to 97, inclusive, 99, 100 and 101 of this act become effective on October 1, 2007.

2. Section 97 of this act expires by limitation upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

3. Section 98 of this act becomes effective upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

LEADLINES OF REPEALED SECTIONS

293.075 "Pollbook" defined.

293.12756 Informational pamphlet concerning petitions; fee.

293.233 Appointment and duties of voting board and counting board in precinct or district where there are 200 or more registered voters and paper ballots are used.

293.245 Placing of absent ballots in ballot box.

293.293 Procedure for voting by paper ballot; duties of election board officer upon receipt of voted ballot.

293.300 Return of ballot not voted; cancellation.

293.359 Ballot boxes for paper ballots or ballots voted by punching card; seals.

293.3598 Ballot board.

293.3602 Custody of paper ballots or ballots voted by punching card; observation by general public of handling of ballots.

293.447 Employment of messenger to convey election returns to Secretary of State; compensation.

293B.160 Test program and card deck to be used for certain mechanical voting systems at election.

293B.210 Clerk to furnish lists of candidates and measures to be voted on at election; Secretary of State to provide to or reimburse county for cards used in elections.

293B.325 Pickup and delivery; processing before polls close.

293C.235 Appointment and duties of voting board and counting board in precinct or district where 200 or more registered voters and paper ballots used.

293C.250 Absent ballot central counting board or central election board responsible for placing absent ballots in ballot boxes in absent ballot mailing precinct.

293C.280 Procedure for voting by paper ballot; duties of election board officer upon receipt of voted ballot.

293C.287 Return and cancellation of ballot not voted.

293C.359 Ballot boxes for paper ballots or ballots voted by punching card; seals.

293C.3598 Ballot board.

293C.3602 Custody of paper ballots or ballots voted by punching card; observation by general public of handling of ballots.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Joint Resolution No. 7.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 346.

Bill read third time.

Roll call on Senate Bill No. 346:

YEAS—21.

NAYS—None.

Senate Bill No. 346 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 455.

Bill read third time.

Roll call on Senate Bill No. 455:

YEAS—21.

NAYS—None.

Senate Bill No. 455 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 458.

Bill read third time.

Roll call on Senate Bill No. 458:

YEAS—21.

NAYS—None.

Senate Bill No. 458 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bills Nos. 6, 57, 70, 95, 131, 154, 181, 227, 233, 236, 311, 313, 323, 344, 352, 428, 446, 493, 507, 540, 549, 570, 576; Assembly Joint Resolution No. 16 of the 73rd Session be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 9, 30, 31, 44, 46, 56, 81, 168, 190; Senate Concurrent Resolution No. 3; Assembly Bills Nos. 2, 15, 16, 22, 28, 39, 43, 118, 135, 198, 220, 266, 278, 283, 299, 303, 329, 348, 504, 520, 536, 548, 556; Assembly Concurrent Resolution No. 29.

REMARKS FROM THE FLOOR

Remarks by Senators Coffin, Townsend and Titus.

Senator Townsend requested that the following legal opinion and remarks be entered in the Journal.

May 15, 2007

SENATOR DINA TITUS

Senate Chambers

Dear SENATOR TITUS:

You have asked this office whether the Executive Order of the Governor which temporarily suspends the processing of applications for the tax abatements and tax exemptions enacted by Assembly Bill No. 3 of the 22nd Special Session is valid and enforceable.

BACKGROUND

Assembly Bill No. 3 (A.B. 3) of the 22nd Special Session enacted various provisions to encourage energy efficiency in construction and renovation, including provisions providing for tax abatements and tax exemptions for certain energy efficient or "green" buildings. See Chapter 2, Statutes of Nevada 2005, 22nd Special Session, at p. 68. In particular, section 6 of A.B. 3 provides for a partial abatement from real property taxes for property which has a

building or other structure that meets certain standards for energy efficiency. Id. at 71. Section 7 of A.B. 3, which expired by limitation on December 31, 2005, provided for an exemption from various sales and use taxes for products or materials used in the construction of a building that meets certain standards for energy efficiency. Id. at 71-72.

During the current Legislative Session, the Legislature enacted Senate Bill No. 567 (S.B. 567), which suspended the processing of applications for the tax abatements and tax exemptions enacted by A.B. 3. On May 14, 2007, the Governor vetoed S.B. 567 and returned the bill to the Legislature. On that same date, the Governor issued an Executive Order temporarily suspending the processing of applications for the tax abatements and tax exemptions enacted by A.B. 3. You have asked whether the Governor's Executive Order is valid and enforceable.

DISCUSSION

The office of Governor did not originate under the common law. The office is primarily a creature of the American system of constitutional government. See Royster v. Brock, 79 S.W.2d 707, 709 (Ky. 1935); Calvert v. Adams, 388 S.W.2d 742, 747 (Tex. Civ. App. 1965), rev'd on other grounds, 396 S.W.2d 948 (Tex. 1965); 38 Am. Jur. 2d Governor § 1 (1999). As a result, courts have generally found that the Governor has little or no inherent power or prerogative power which arises merely by virtue of the office. See Clark v. Boyce, 185 P. 136, 138 (Ariz. 1919); City of Bridgeport v. Agostinelli, 316 A.2d 371, 376 (Conn. 1972); Royster v. Brock, 79 S.W.2d 707, 709 (Ky. 1935); Richardson v. Young, 125 S.W. 664, 669 (Tenn. 1910). Instead, the Governor possesses only those express and limited powers that are granted to the Governor by the state constitution or by statute. Id.; Litchfield Elementary Sch. Dist. No. 79 v. Babbitt, 608 P.2d 792, 797 (Ariz. Ct. App. 1980).

Furthermore, under the fundamental doctrine of separation of powers, the Governor may not exercise legislative power unless the Governor's exercise of that power is expressly permitted by the constitution. See State of Nev. Employees Ass'n v. Daines, 108 Nev. 15, 21 (1992); Galloway v. Truesdell, 83 Nev. 13, 20-21 (1967). Because there are no provisions in the Nevada Constitution that expressly permit the Governor to repeal or set aside the operation of statutes, the Governor "is powerless to set aside a statute after it has become the law." State ex rel. White v. Dickerson, 33 Nev. 540, 561 (1910).

Finally, with regard to the issuance of executive orders, the well-established rule is that an executive order is not valid and enforceable unless the executive order falls within the express or implied authority granted to the Governor by the constitution or by statute. See 81A C.J.S. States § 242 (2004). As explained by the United States Supreme Court in the context of an executive order issued by the President of the United States, "[t]he President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself." Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 585 (1952); 91 C.J.S. United States § 48 (2000). Thus, "in the absence of a constitutional or statutory grant of authority from the Legislature, the Governor cannot create obligations, responsibilities, conditions or processes having the force and effect of law merely by issuing an executive order." Fischer-McReynolds v. Quasim, 6 P.3d 30, 36-37 (Wash. Ct. App. 2000). Accordingly, an executive order issued without constitutional or statutory authority does not have the force and effect of law and will not be enforced by the courts. See Werner v. Zazyczny, 681 A.2d 1331, 1336 (Pa. 1996).

In applying these general rules to specific executive orders, courts have found that an executive order which requires a state agency to act contrary to specific statutory mandates is invalid. See County Comm'n v. Dodrill, 385 S.E.2d 248, 250 (W. Va. 1989); State ex rel. Dodrill v. Scott, 352 S.E.2d 741, 744-45 (W. Va. 1986); Opinion of the Justices, 392 A.2d 125, 129 (N.H. 1978). Courts have also found that the Governor may not suspend the operation of statutes through an executive order unless the Governor has been granted constitutional or statutory authority to order such a suspension. See Massachusetts Bay Transp. Auth. Advisory Bd. v. Massachusetts Bay Transp. Auth., 417 N.E.2d 7, 13 (Mass. 1981). As explained by one court, "[t]he suspension of statutes by a Governor is also antithetical to the constitutional duty to 'take care that the laws be faithfully executed.'" Fletcher v. Commonwealth, 163 S.W.3d 852, 872 (Ky. 2005). Therefore, as a general rule, the Governor's unauthorized suspension of a statute through an executive order is void from its inception and will not be enforced by the courts. See Baker v. Fletcher, 204 S.W.3d 589, 593 (Ky. 2006).

Based on our research, we have not found any constitutional or statutory provisions that either expressly or by implication vest the Governor with the legal authority to issue an Executive Order suspending the processing of applications for the tax abatements and tax exemptions enacted by A.B. 3. Indeed, in the Executive Order issued on May 14, 2007, the Governor does not cite any statutory provisions as authority for the Executive Order. Instead, the only authority cited in the Executive Order is Section 1 of Article 5 of the Nevada Constitution, which provides that "[t]he supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada." However, the Nevada Supreme Court has held that the "supreme executive power" vested in the Governor by the Nevada Constitution does not include the power to disregard acts of the Legislature. State of Nev. Employees Ass'n v. Daines, 108 Nev. 15, 20-21 (1992).

In Daines, the Legislature enacted a bill appropriating funds for salary increases for classified state employees. Id. at 17. Based on projected revenue shortfalls, the Board of Examiners, which consists of the Governor, the Secretary of State and the Attorney General, voted to defer allocation and disbursement of the funds appropriated by the Legislature for the salary increases for up to three months from the date the salary increases were to become effective. Id. As a result of the action of the Board of Examiners, the State Controller refused to issue warrants sufficient to pay the authorized salary increases, and the State of Nevada Employees Association petitioned for a writ of mandamus compelling the State Controller to comply with the salary increases enacted by the Legislature. Id. In response to the petition, the State Controller argued that the deferral was valid because the Governor had the authority to defer the salary increases based on the "supreme executive power" vested in the Governor by the Nevada Constitution. Id. at 20-21. The court flatly rejected the argument, finding that the Governor's "supreme executive power" did not include the power to disregard acts of the Legislature. Id. at 20-21. Specifically, the court stated:

Respondent contends that the governor could order deferral of disbursement of the salary increases pursuant to the "supreme executive power" vested in him by Article 5, Section 1 of the Nevada Constitution. Respondent has failed to cite any authority, however, for the proposition that the supreme executive power of the State of Nevada includes the power to disregard acts of the legislature. Indeed, the governor has a constitutional duty to see that the laws enacted by the legislature are faithfully executed.

Further, it well established that the power of controlling the public purse lies within legislative, not executive authority. Thus, the action of the governor was not authorized by his "supreme executive power."

Id. at 20-21 (footnotes and citations omitted).

The tax abatements and tax exemptions enacted by A.B. 3 imposed specific statutory mandates on several state agencies, including the Commission on Economic Development, the Department of Taxation, the Nevada Tax Commission and the Office of Energy. Based on the holding in Daines, we do not believe the Governor's "supreme executive power" under the Nevada Constitution provided the Governor with the constitutional authority to suspend the operation of A.B. 3 or to order such state agencies to act contrary to the specific statutory mandates of the Legislature. Therefore, in the absence of any constitutional or statutory authority, we believe the Governor's Executive Order which suspends the processing of applications for the tax abatements and tax exemptions enacted by A.B. 3 does not have the force and effect of law and will not be enforced by the courts. Consequently, it is the opinion of this office that the Governor's Executive Order is not valid and enforceable.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,

BRENDA J. ERDOES

Legislative Counsel

By _____

KEVIN C. POWERS

Senate Legal Counsel

and Bill Drafting Adviser

SENATOR COFFIN:

Thank you, Mr. President. I have a question for the body. We had verbally understood an opinion was being drafted that would indicate that the Governor's Executive Order regarding A.B. 3 of the 22nd Special Session and now Senate Bill No. 567 of this Session on the same subject was unconstitutional. Today, at the request of one of our members, we received a written opinion indicating that the Governor's Executive Order is not constitutional. Therefore, the veto leaves the existing law in force.

I have read other news stories on the Internet about negotiations and meetings occurring. Where they have occurred I do not know, but some of our members were involved. I read there is going to be a joint meeting of the Committees on Commerce and Labor on this subject of tax abatement, tax exemption.

I would like to know what the feeling of the Leadership is as to who should have jurisdiction over that. It seems to me that is a Committee on Taxation jurisdiction. I do not know if the bill is going to come to the Committee on Taxation. I asked my colleagues on Taxation, yesterday, if they were working on it because I felt frustrated. I knew there were discussions occurring, but they were going somewhere else. The committee with the duty and the experience to handle taxes ought to be working on this problem. Yet, we have not been called to do this. I would like to find out what is happening. I would like to know more about the opinion. I do not want to be kept in the dark as one of the members of this body, equal to all other members. If we have a job to do, let us find out who is doing it.

SENATOR TOWNSEND:

Thank you, Mr. President. The questions asked are important to the debate at hand. This body will receive the veto message at which time it will be posted, and the body will have to make the determination regarding the bill that has been vetoed.

I do not know what jurisdiction we have over the Executive Proclamation. To my knowledge, we do not have any. We will be asked either to sustain or to override the bill that will come back to us. This is the bill that suspends all the regulations that have been put in place regarding the abatements under A.B. 3 of the 22nd Special Session.

Who has jurisdiction and who is involved and who is working are the second and third parts of the Senator's questions.

A.B. 3 of the 22nd Special Session was processed by the Committees on Commerce and Labor. The Speaker assigned two people to try to help come up with a matrix. The Senate Minority Leader and I have been involved with those discussions so that the body can have this information. Additionally, the Minority Leader and I have been active in the previous bill, A.B. 3 of the 22nd Special Session. We are trying to find enough components for a matrix so that the body at large can make decisions regarding the following issues: First, what is the effect of any abatement going forward on long-term State financial matters as well as local government and school district matters. That is going to require a broad view of the total impact of the original bill. The only way we can get that is to have the staff come up with those projections. We are waiting for those numbers, and we should have those by Thursday night.

There was some concern, though not as grounded as some may have wanted them to be, that A.B. 3 of the 22nd Special Session had not been properly vetted. I can assure you I have read all of the minutes from the Assembly, along with the discussion in this House, and it was thoroughly vetted, certainly in one House. Moreover, the Governor has asked for a thorough vetting of the debate on this issue in the coming days. The first of those has been set as a joint committee meeting of the two Commerce and Labor Committees at the adjournment of the Assembly Session on Friday.

With regard to the jurisdictional issue, the point has been well taken. I have no particular reason to say that the Committee on Commerce and Labor has that jurisdiction. I would be more than glad were the body to have the bill in Finance or in Taxation. It matters not to me. I am going to do all I can to make certain the information is available to everyone, whether in committee or in the entire body.

The debate on whether the Governor's Executive Order is constitutional or not is not an area I am comfortable commenting on. I do not have anything printed nor provided to me regarding that from our Legislative Counsel Bureau. I cannot comment on this. The previous speaker and I

have the same access to the information in terms of what we are hearing in the halls and what we read in the press. Until we have an official opinion, all I have is a personal opinion, and it would not be very well grounded.

I am moving forward on the basis that at some point the two Houses will try to come up with a standard better suited to the needs of Nevada and move forward from there. The legal arguments that occur regarding the current standards and what is affected in the regulatory body and whether or not that the Governor's Executive Order has validity or constitutionality will have to be left to those who work in that area.

SENATOR COFFIN:

Thank you, Mr. President. I appreciate the comments from the Chair of the Committee on Commerce and Labor and a colleague of mine on the Committee on Taxation.

Since the Taxation Committee has not been meeting and has time on its hands, I thought we might become busy and help fulfill the role we are supposed to fill under Standing Rule 40. Rule 40 was probably suspended during the 22nd Special Session, being one of two Special Sessions we had within the space of a day in 2005. I did not realize that the Committee on Commerce and Labor had handled the bill. My apologies to the Senator for my inferring that he might not have had jurisdiction in 2005. Standing Rule 40 has not been suspended in this Legislative Session so I hope that the members of the Committee on Taxation are invited to participate in these hearings that we may ask questions based upon our experience. We come up with the questions through our years of service on that committee. Sometimes the questions do not come up in other committees. I would appreciate the chance to attend or to at least be aware of what is going on in that committee.

On the matter of the constitutionality of the Governor's Executive Order, I have a copy of the legal opinion drafted by the Legislative Counsel Bureau (LCB) issued a couple of hours ago which indicates that the Governor's Executive Order is unconstitutional. That puts us back to square one. The words in the Governor's Executive Order signify nothing. What I am hoping for is that we have more like this so that we do not see the authority of the Legislative Branch usurped by the Executive Branch. I hope we all have a copy soon. I did not request it, but I received the copy a few hours ago.

SENATOR TITUS:

Thank you, Mr. President. I would like to address both points. I will discuss the revision of the Leadership in Energy and Environment Design bill, LEED as it is known, and its tax breaks and also the Governor's Executive Order.

First, I appreciate the comments from the Chair of the Committee on Commerce and Labor. We have been working on this. We are looking for a proposal that will balance the financial needs of the State, especially in the area of education, with a plan that provides for environmental protection and energy conservation. If we can come up with a draft, it will be vetted before both Houses and before appropriate committees. I would like to add, that the thorough vetting is not something new. The Legislature has gotten a bad "rap" on this. We have been blamed for rushing something through without considering the consequences. That is not true. The bill that passed out of this Legislature creating the original abatement program for LEED-certified buildings was discussed often and considered by people who have worked on this issue for a long time. The legislation that was passed, however, was greatly expanded by the Tax Commission and by the Governor's own Energy Office.

A thick book traces the paper trail for all of the applications from the different companies who wanted to take advantage of the certification program. The companies did not follow the same process. Some made a phone call, some sent a letter, some hired a lawyer, some went directly to the Tax Commission and some went to the Energy Office. It is a mess. It is a disaster. There were no regulations put in place by the Tax Commission. It was done, and I hate to use the term willy-nilly, but the term applies in this case. The blame should not be put on the Legislature. As we look at this again, I hope people will keep in mind that we are continuing to study both issues, environmental protection and energy conservation. And at the same time, we must consider the financial needs of the State. They are all-important and should be balanced as policy moves forward.

Second, we have an opinion from our LCB staff on the Governor's Executive Order. I think they are the best lawyers in the State. That opinion strongly states that the Governor's Executive Order is unconstitutional. It bridges separation of powers in the State between the Executive and the Legislative Branch and goes far beyond anything that is granted to the Governor either in statute or in our State Constitution. I would like to see this Legislature not just say, "Oh well, here is the Governor doing something else," but rather take some kind of proactive step.

We are already the stepchild of Nevada government. We only meet every other year. We meet for 120 days. We have very little power once we are out of Session. The Executive Branch has much more. If we just shrug and say, "Oh, it is okay for a Governor to negate legislation through an Executive Order, without going through the proper channels of veto and override," which are the established constitutional protocols, then I think it is a shame. The Legislature is the people's branch of government. We should be standing up fighting and protecting the powers we were granted in the Constitution to safeguard the people's rights and to promote their interests.

SENATOR TOWNSEND:

Thank you, Mr. President. The distinguished Minority Leader highlighted something that I think needs to be underscored, and the record should be made extremely clear.

When A.B. 3 of the 22nd Special Session was passed, there was a provision in it that states specifically that those who wish to build to a LEED standard and to subsequently qualify, may apply to the Department of Taxation for the abatement of the sales-and-use tax on the materials used in that project. The effective date of that provision was October 1, 2005. We passed A.B. 3 of the 22nd Special Session sometime in June. The termination date for the sales-and-use tax abatement was December 31, 2005. We used October 1, 2005, for the purpose the Department of Taxation to draft a regulation to implement those provisions, which provide those abatements. I repeat, that is exactly the reason the three-month delay was put in place so that regulations could be drafted. The last section of the bill specifically states that. The reason the sales-and-use tax-abatement provision was terminated on December 31, 2005, was because of the compact the State of Nevada has on the "streamline" sales-and-use tax provision.

The following should be made extremely clear. As this debate advances, with a complete vetting in whatever committees as well as the full Legislature, it should be made clear that this body, in passing a bill, whether you agreed with the bill or any section of the bill, had done their job. The reason the State has started down a slippery path. We now have to look at every single piece of paper thereby becoming a judge and jury on this issue. It is because there was no regulation promulgated by the Department of Taxation. There should have been a regulation. Anyone who disputes that needs to make his or her reasons clear because I do not see how you could avoid that conclusion. This is a shame for the public; it is a shame for this body; it is a shame for the integrity of all who participated in this debate, and it is a shame for those people who are expecting some kind of opportunity to vet their concerns.

At the end of the day, whether it is about energy, whether it is about any other kind of issue that comes before us, I can assure you that one of the reasons we are successful as a state, in terms of generating revenue, is because our regulatory authorities: whether it is gaming control, the Public Utilities Commission, the insurance department, or real estate division or any other regulatory body, has been consistent and honorable. That is what investors look to; that is what Wall Street looks to, what the Bond Market looks to, and that is what the private equity firms look to. One thing you can do to undermine economic development and growth in this State is to be inconsistent in your regulatory policy. This issue has been devastating. It is something I am deeply concerned about.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to Ensign RYANNE AMODEI.

On request of Senator Heck, the privilege of the floor of the Senate Chamber for this day was extended to the following students and chaperones from the David M. Cox Elementary School: Mariam Arakelian, Blue Baker,

Mason Barnes, Sydney Bieber, Miranda Brown, Destiny Burns, Caroline Chamber, Elizabeth Cleghorn, Everett Dampier, Travis Dickens, Amber Garcia, Venita Gurell, Austin Hailpern, Jyselle Harford, Adam Horowitz, Patrick Messimer, Sarah Morley, Michaela Morris, Anthony Saavedra, Miki Takiguchi, Zachary Tarangul, Travis West, Josiah Wynn, Tala Abu-shami, Mark Bergmann, Liz Casis Kevin Chen, Jamie Franco, Nicholas Leone, Lauren MacDonald, Jordan May, Whitney Meinders, Anthony Mollinedo, Philip Perelman, Seth Salinas, Alexxis Scott, Eli Thompson, Olivia Vanostrand, McKenzie Washington, Joshua Wride, Zach Lapidus, Katie Cleghorn, Evan Gong, Noa Arbeli, Ali Beydoun, April Carithers-Arellano, Amber Casey, Ashlyn Darang, Emily Griffiths, Bruno Hyderkan, Michael King, Gillian Martinez, Devin Matelski, Madison McCabe, Breanna Morales, Lourdes Osman, Shelbie Petrelli, Aaron Torres, Trista Turnbeaugh, Brady Wainio, Brady Williams; chaperones: Laura Pappalardo, Gregg Barnes, Steven Messimer, Sandra Dickens, Heather Morley, Piyada West Christopher Tarangul, Ann Horowitz, Adriana Diaz, Anita Henson, Lisa Lapidus, Louis Bergmann, Abbie Spoor, Marie Hyderkhan and David Westendorf.

On request of Senator Horsford, the privilege of the floor of the Senate Chamber for this day was extended to Caroline Ciocca and Russell Rowe.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teacher from the Green Valley Christian Schools: Torre Amerson, Katrina Arjona, Javlin Baloca, Matthew Cavanaugh, Taylor Chadwick, Caitlyn Chamberlin, Dylan De Frank, Tyler Dewey, Maggie Dillon, Bridgette Dwyer, Adriana Gillinta, Jacob Gonzales, Deja Harris, Celine Ho, Eden Janeway, Shiloh Johnston, Lorraina Jordan, James Kitral, Joseph Koh, Jackie Levesque, Leah Lychock, Arianna Mendiola, Cody Moers Bowman, Camille Morria, Aubree Roper, Helanina Russo, Brandan Shaw, Ryan Terwilliger, Laura Lycheck, Maria Fernandez, Tristan Tratos, Sage Troxel, Dominic Turner; chaperones: Theresa Baker, Sam Freeman, Patty Dewey, Michael Kitral, Michael Cavanaugh, Pam Demos, Michael Johnston, Jeni Terwilliger, Patrick Moers, Laura Lycheck, Maria Fernandez and teacher: Sam Friedman.

Senator Raggio moved that the Senate adjourn until Thursday, May 17, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 12:23 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate