

**THE SIXTY-FOURTH DAY**

---

CARSON CITY (Monday), April 6, 2009

Senate called to order at 11:32 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bill McCord.

Almighty God, who alone gives wisdom and understanding, inspire, we pray, the minds and hearts of all to whom You have committed responsibility of leadership in our beautiful State.

Give them the vision of truth and justice, that by Your counsel they may work together for the welfare of all citizens in these troubled times, through Jesus Christ, our Lord.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford 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 Energy, Infrastructure and Transportation, to which were referred Senate Bills Nos. 134, 144, 217, 240, 243, 246, 251, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

*Mr. President:*

Your Committee on Finance, to which were referred Senate Bills Nos. 174, 392, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was referred Senate Bill No. 14, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was referred Senate Bill No. 384, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Health and Education.

BERNICE MATHEWS, *Cochair*

*Mr. President:*

Your Committee on Government Affairs, to which was referred Senate Bill No. 222, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Senate Bills Nos. 76, 94, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

*Mr. President:*

Your Committee on Health and Education, to which were referred Senate Bills Nos. 7, 62, 131, 164, 244, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

*Mr. President:*

Your Committee on Judiciary, to which was referred Senate Bill No. 353, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 125, 238, 287, 313, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 39, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOYCE WOODHOUSE, *Chair*

*Mr. President:*

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 108, 170, 204, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

*Mr. President:*

Your Committee on Taxation, to which was referred Senate Bill No. 158, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BOB COFFIN, *Chair*

#### WAIVERS AND EXEMPTIONS

##### NOTICE OF EXEMPTION

April 2, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 278, 326, 385, 394.

GARY GHIGGERI  
*Fiscal Analysis Division*

April 6, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 284, 346, 367.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 264, 359, 368, 372, 375, 377, 382, 397.

GARY GHIGGERI  
*Fiscal Analysis Division*

#### MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 4.

Resolution read.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

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

Senate Concurrent Resolution No. 4 urges the Division of Child and Family Services of the Department of Health and Human Services, the Clark County Department of Family Services and the Washoe County Department of Social Services, in consultation with other key stakeholders connected to the safety and welfare of children in this State, to develop a statewide

standardized practice model for providing child-and-family services which focuses on the preservation of the family while ensuring the safe protection of children.

It assesses the disproportionate number of minority children placed in foster care in this State and develops a strategy to address the disproportionality, including a mechanism for the ongoing collection and tracking of related data.

It identifies targets to reduce, in a safe and efficient manner, the number of children in foster care and implement a system to monitor the reduction efforts.

The amendment ensures that allegations of child abuse and neglect are investigated properly before removing children from their homes.

It studies and assesses the prescription and administration of psychotropic medications to children placed in the custody of an agency that provides child-welfare services in this State, and it develops and implements an assessment to determine the safety or risk of allowing a child to remain in his home.

Resolution adopted as amended.

Resolution ordered transmitted to the Assembly.

Assembly Concurrent Resolution No. 17.

Resolution read.

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

Motion carried.

Senate in recess at 11:38 a.m.

#### SENATE IN SESSION

At 11:42 a.m.

President Krolicki presiding.

Quorum present.

Senator Carlton moved that Assembly Concurrent Resolution No. 17 be taken from the Resolution File and placed on the Secretary's desk.

Motion carried.

Senator Mathews moved that Senate Bill No. 384 just reported out of committee be rereferred to the Committee on Health and Education.

Remarks by Senator Mathews.

Motion carried.

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

Motion carried.

Senator Care moved that Assembly Bill No. 469 be placed on the top of the Second Reading File.

Motion carried.

Senator Care moved that Senate Bills Nos. 129, 136, 147, 152, 159, 161, 165, 169, 190, 207, 213, 214, 215, 220, 231, 249, 277, 302, 307, 333, 336,

342, 344; Senate Joint Resolutions Nos. 1, 8; Senate Joint Resolution No. 3 of the 74th Session; Assembly Bill No. 216; Assembly Joint Resolution No. 3 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Woodhouse moved that Senate Bill No. 162 be taken from the General File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 469.

Bill read second time and ordered to third reading.

Senate Bill No. 43.

Bill read second time.

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

Amendment No. 33.

"SUMMARY—Revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works. (BDR 28-323)"

"AN ACT relating to public works; revising the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works to include whether the applicant has ~~[(1)]~~ been disciplined or fined by the State Contractors' Board or another state or federal agency ~~[(2)]~~ ~~entered into any consent decree or settlement agreement in relation to an action brought against the applicant by the Board or another state or federal agency.]~~ for conduct that relates to the ability of the applicant to perform the public work. (NRS 338.1375)

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

Section 1. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895;

(5) ~~Whether the applicant has~~ ~~+~~

~~(I) Been~~ been disciplined or fined by the State Contractors' Board or another state or federal agency ~~=~~

~~(II) Entered into any consent decree or settlement agreement in relation to an action brought against the applicant by the State Contractors' Board or another state or federal agency.~~ for conduct that relates to the ability of the applicant to perform the public work;

(6) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

~~{(6)}~~ (7) The truthfulness and completeness of the application.

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 33 to Senate Bill 43 deletes language that would have required the Public Works Board to adopt selection criteria specifying whether an applicant for a public work has entered into a consent decree or settlement agreement with the State Contractor's Board or another state or federal agency. The amendment also clarifies that the Public Works Board would only consider fines or discipline related to the applicant's ability to perform the public work.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 53.

Bill read second time.

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

Amendment No. 11.

"SUMMARY—Makes various changes relating to the Office of the Secretary of State. (BDR 18-415)"

"AN ACT relating to the Office of the Secretary of State; ~~requiring~~ authorizing the establishment of an electronic registry for the storage of wills and other documents; revising provisions regarding fees collected for certain services; revising the job classification of the Administrator of the Securities

Division within the Office; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that the Secretary of State maintain the Registry of Advance Directives for Health Care, in which a person can post a digital copy of an advance directive concerning his health care. (NRS 449.900-449.965) Section 8 of this bill ~~requires that~~ *authorizes* the Secretary of State *to* create and maintain the Nevada Lockbox, a secure on-line registry which allows a person to post an electronic copy of a will or other document and retrieve that document when needed. Section 9 of this bill establishes the procedures that a person must follow to register a document in the Nevada Lockbox, *if established*. Sections 10 and 11 of this bill set forth how, and to whom, access to a document registered in the Nevada Lockbox, *if established*, is to be granted. Section 12 of this bill provides that the Secretary of State is not required to verify the accuracy or validity of any document before that document is submitted for registration in the Nevada Lockbox, *if established*. Section 12 also: (1) clarifies that registration of a document in the Nevada Lockbox, *if established*, does not affect the validity of the document; and (2) provides further that failure by an attorney to register the will of a client in the Nevada Lockbox, *if established*, does not impose on the attorney liability for malpractice. Section 13 of this bill authorizes the Secretary of State to charge fees and accept contributions to establish and maintain the Nevada Lockbox.

Section 14 of this bill restricts the use of money that the Secretary of State receives for the purpose of establishing and maintaining the Nevada Lockbox. Section 15 of this bill provides that if the Secretary of State, his deputies, employees and attorneys act in good faith, they have civil and criminal immunity regarding any act or omission associated with the establishment and maintenance of the Nevada Lockbox. Section 16 of this bill authorizes the Secretary of State to adopt such regulations as he determines to be necessary or advisable to provide for the establishment and maintenance of the Nevada Lockbox.

Under existing law, all fees collected by the Secretary of State are required to be deposited with the State Treasurer for credit to the State General Fund unless otherwise specifically provided by law. (NRS 225.150) Currently, one-half of the fees collected by the Office of the Secretary of State for the provision of certain special services are required to be deposited into the State General Fund, and one-half, into the Account for Special Services of the Secretary of State in the State General Fund, which may only be used for certain purposes by the Secretary of State. (NRS 225.140) Section 17 of this bill eliminates the Account for Special Services, and therefore, all the fees collected for the provision of special services will be deposited into the State General Fund.

Section 18 of this bill moves the position of the Administrator of the Securities Division in the Office of the Secretary of State from the classified service to the unclassified service of the State. (NRS 225.170)

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

Section 1. Chapter 225 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Lockbox" means an electronic file, including, without limitation, any will or other document stored electronically in the file, that is established in the Nevada Lockbox and registered to a person pursuant to section 9 of this act.*

Sec. 4. *"Nevada Lockbox" means the registry authorized to be established by the Secretary of State pursuant to section 8 of this act.*

Sec. 5. *"Other document" means a document registered with the Secretary of State pursuant to section 9 of this act and may include, without limitation, a passport, a birth certificate or a marriage license.*

Sec. 6. *"Registrant" means a person whose will or other document is registered with the Secretary of State pursuant to section 9 of this act.*

Sec. 7. *"Will" has the meaning ascribed to it in NRS 132.370.*

Sec. 8. *The Secretary of State ~~shall~~ may establish and maintain on his Internet website a registry to be known as the Nevada Lockbox. The registry must include, without limitation, in a secure portion of the website, an electronic reproduction of each will or other document filed by a registrant. The electronic reproduction must be capable of being viewed on the registry and downloaded, printed or otherwise retrieved by a person pursuant to section 9 of this act.*

Sec. 9. *If the Nevada Lockbox is established pursuant to section 8 of this act:*

1. *A person who wishes to establish a lockbox and thereby register a will or other document in the Nevada Lockbox must submit to the Secretary of State:*

- (a) An application in the form prescribed by the Secretary of State;*
- (b) A copy of the will or other document to be registered; and*
- (c) The fee, if any, established by the Secretary of State pursuant to section 13 of this act.*

2. *If the person satisfies the requirements of subsection 1, the Secretary of State shall:*

- (a) Make an electronic reproduction of the will or other document and post it within the registrant's lockbox;*
- (b) Assign to the registrant a registration number and access code for the lockbox; and*

(c) Provide to the registrant a registration card that includes, without limitation:

- (1) The name of the registrant;
- (2) The registration number assigned to the registrant pursuant to paragraph (b); and
- (3) The access code assigned to the registrant pursuant to paragraph (b).

3. The Secretary of State shall establish procedures for, without limitation:

(a) The registration of a will or other document which replaces a will or other document that has been registered previously and posted within the Nevada Lockbox;

(b) The removal from the Nevada Lockbox of a will or other document that has been revoked at the request of the registrant; and

(c) The issuance of a duplicate registration card or the provision of other access by a registrant to his registration number and access code if a registration card issued pursuant to this section is lost, stolen, mutilated, destroyed or otherwise unavailable.

Sec. 10. If the Nevada Lockbox is established pursuant to section 8 of this act:

1. Except as otherwise provided in this section, the Secretary of State shall not provide access to the lockbox of a registrant unless:

- (a) The person requesting access provides the registration number and access code of the registrant;
- (b) The Secretary of State determines that providing access to the lockbox is in the best interest of the registrant;
- (c) Access to the lockbox is required pursuant to the lawful order of a court of competent jurisdiction; or
- (d) Access to the lockbox is requested by the registrant or his personal representative.

2. A registrant or his personal representative may access the lockbox of the registrant for any purpose.

Sec. 11. ~~The~~ If the Nevada Lockbox is established pursuant to section 8 of this act, the Secretary of State may remove from the Nevada Lockbox the contents of the lockbox of a deceased registrant only:

1. Upon the request of the registrant's personal representative;
2. Upon receiving confirmation that probate of the estate of the registrant is completed; or
3. Pursuant to the lawful order of a court of competent jurisdiction.

Sec. 12. If the Nevada Lockbox is established pursuant to section 8 of this act:

1. The provisions of sections 2 to 16, inclusive, of this act do not require that the Secretary of State determine whether the contents of a will or other document submitted for registration are accurate or whether the execution or

issuance of the will or other document complies with the requirements necessary to make the will or other document valid.

2. The registration of a will or other document does not establish or create a presumption that the contents thereof are accurate or that the execution or issuance of the will or other document complies with the requirements necessary to make the will or other document valid.

3. The registration of or the failure to register a will or other document does not otherwise affect the validity of the will or other document.

4. Failure to notify the Secretary of State of the revocation of a will or other document does not affect the validity of the will or other document.

5. The existence or nonexistence of the registration of a will must not be considered an evidentiary fact in a proceeding relating to the will.

6. The failure to register a document related to a will must not be considered in determining the validity of the will.

7. An attorney is not subject to liability for malpractice for failing to register a will, or any document related to the will, of a client.

Sec. 13. ~~The~~ If the Nevada Lockbox is established pursuant to section 8 of this act, the Secretary of State may charge and collect fees for the registration of a will or other document pursuant to section 9 of this act. The Secretary of State may accept gifts, grants, bequests and other contributions from any source for the purpose of carrying out the provisions of sections 2 to 16, inclusive, of this act.

Sec. 14. 1. All money received by the Secretary of State pursuant to sections 2 to 16, inclusive, of this act must be:

(a) Deposited in the State Treasury and accounted for separately in the State General Fund; and

(b) Used only for the purpose of carrying out the provisions of sections 2 to 16, inclusive, of this act.

2. The Secretary of State shall administer the account. The interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account.

3. The money in the account does not lapse to the State General Fund at the end of a fiscal year.

4. Claims against the account must be paid as other claims against the State are paid.

Sec. 15. The Secretary of State and the deputies, employees and attorneys of the Secretary of State are not liable for any action or omission made in good faith by the Secretary of State, deputy, employee or attorney in carrying out the provisions of sections 2 to 16, inclusive, of this act.

Sec. 16. The Secretary of State may adopt such regulations as he determines to be necessary or advisable to carry out the provisions of sections 2 to 16, inclusive, of this act.

Sec. 17. NRS 225.140 is hereby amended to read as follows:

225.140 1. Except as otherwise provided in subsection 2, in addition to other fees authorized by law, the Secretary of State shall charge and collect the following fees:

For certifying to a copy of any law, joint resolution, transcript of record or other paper on file or of record with the Secretary of State, including, but not limited to, a document required to be filed pursuant to title 24 of NRS, and use of the State Seal, for each impression..... \$20

For each passport or other document signed by the Governor and attested by the Secretary of State ..... 10

2. The Secretary of State:

(a) Shall charge a reasonable fee for searching records and documents kept in his office, including, but not limited to, records and documents that are stored on a computer database.

(b) May charge or collect any filing or other fees for services rendered by him to the State of Nevada, any local governmental agency or agency of the Federal Government, or any officer thereof in his official capacity or respecting his office or official duties.

(c) May not charge or collect a filing or other fee for:

(1) Attesting extradition papers or executive warrants for other states.

(2) Any commission or appointment issued or made by the Governor, either for the use of the State Seal or otherwise.

(d) May charge a reasonable fee, not to exceed:

(1) One thousand dollars, for providing service within 1 hour after the time service is requested;

(2) Five hundred dollars, for providing service more than 1 hour but within 2 hours after the time the service is requested; and

(3) One hundred twenty-five dollars, for providing any other special service, including, but not limited to, providing service more than 2 hours but within 24 hours after the time the service is requested, accepting documents filed by facsimile machine and other use of new technology.

(e) Shall charge a person, for each check or other negotiable instrument returned to the Office of the Secretary of State because the person had insufficient money or credit with the drawee to pay the check or other instrument or because the person stopped payment on the check or other instrument:

(1) A fee of \$25; and

(2) If the check or other instrument that was returned had been presented for the payment of a filing fee for more than one entity, an additional fee in an amount equal to the actual cost incurred by the Office of the Secretary of State to perform the following actions as a result of the returned check or instrument:

(I) Reversing the status of the entities in the records of the Office of the Secretary of State; and

(II) Recouping any fees charged for services rendered by the Office of the Secretary of State to the entities, including, without limitation, fees charged for providing service pursuant to paragraph (d), providing copies or issuing certificates.

↪ The Secretary of State shall, by regulation, establish procedures for the imposition of the fees authorized by this paragraph and the manner in which a fee authorized by subparagraph (2) will be calculated.

(f) May charge a reasonable fee for searching for and cancelling or removing, if requested, any filing that has been submitted to him but not yet processed.

3. ~~{From each fee collected pursuant to paragraph (d) of subsection 2:~~

~~(a) One-half of the fee collected must be deposited with the State Treasurer for credit to the Account for Special Services of the Secretary of State in the State General Fund. Any amount remaining in the Account at the end of a fiscal year in excess of \$2,000,000 must be transferred to the State General Fund. Money in the Account may be transferred to the Secretary of State's Operating General Fund Budget Account and must only be used to create and maintain the capability of the Office of the Secretary of State to provide special services, including, but not limited to, providing service:~~

~~(1) On the day it is requested or within 24 hours; or~~

~~(2) Necessary to increase or maintain the efficiency of the Office.~~

↪ ~~Any transfer of money from the Account for expenditure by the Secretary of State must be approved by the Interim Finance Committee.~~

~~(b) After deducting the amount required pursuant to paragraph (a), the remainder must be deposited with the State Treasurer for credit to the State General Fund.~~

4.} The Secretary of State shall post a schedule of the fees authorized to be charged pursuant to this section in a conspicuous place at each office at which such fees are collected.

Sec. 18. NRS 225.170 is hereby amended to read as follows:

225.170 1. There is hereby created within the Office of the Secretary of State a Securities Division. The Secretary of State shall appoint an Administrator of the Division. The Administrator of the Division is in the ~~{classified}~~ unclassified service of the State.

2. The Secretary of State may, alternatively:

(a) Use the services of an assigned deputy attorney general as legal counsel for the Division.

(b) Appoint an attorney as legal counsel for the Division. If appointed, he is in the unclassified service of the State.

(c) Contract for services to be rendered by such other legal counsel as are needed for assistance in administering chapter 90 of NRS.

3. Each of the legal counsel must be an attorney admitted to practice law in Nevada.

Sec. 19. 1. This section and sections 1 to 16, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of sections 2 to 16, inclusive, of this act; and

(b) On July 1, 2009, for all other purposes.

2. Sections 17 and 18 of this act become effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 11 to Senate Bill 53 amends section 8 of the bill to make the establishment of the "Nevada Lockbox" permissive and makes the appropriate conforming changes throughout the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 59.

Bill read second time.

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

Amendment No. 188.

"SUMMARY—Revises provisions governing telephone systems used for reporting emergencies in certain ~~larger~~ counties. (BDR 20-471)"

"AN ACT relating to counties; revising provisions governing telephone systems used for reporting emergencies in certain ~~larger~~ counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a board of county commissioners in a county whose population is less than 400,000 (currently counties other than Clark County) is authorized to impose a surcharge to enhance or, in smaller counties, to enhance and improve the telephone system for reporting an emergency in the county. A board of county commissioners in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) is not authorized to impose the surcharge unless the board has first adopted a 5-year master plan for the emergency telephone system, which is required to address estimates of costs and proposed sources of funding. (NRS 244A.7643) *Section 1 of this bill defines "telephone system" for the purposes of this authority. (NRS 244A.7641)* Section ~~1~~ 2 of this bill makes the requirement to adopt a 5-year master plan applicable on or after July 1, 2010, to a county whose population is 100,000 or more but less than 400,000 (currently Washoe County). Section ~~1~~ 2 also requires, for the duration of the imposition of a surcharge, an annual review and, if necessary, an update of the master plan in all counties in which such a plan was adopted.

Under existing law, the proceeds of such a surcharge are placed in a special revenue fund of the county. If the unencumbered balance of the

proceeds of the surcharge in the fund at the end of any fiscal year exceeds \$500,000, the board of county commissioners is required to decrease the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$500,000. (NRS 244A.7645) Section ~~2~~ 3 of this bill increases the threshold amount that triggers a decrease in the surcharge in the fund of a county whose population is ~~100,000~~ 40,000 or more but less than 400,000 (currently ~~Washoe County~~ Carson City and Elko, Douglas and Washoe Counties) to \$1,000,000. Section ~~2~~ 3 also expands the purposes for which a county whose population is ~~100,000~~ 40,000 or more but less than 400,000 (currently ~~Washoe County~~ Carson City and Elko, Douglas and Washoe Counties) may use the proceeds of the surcharge to enhance the emergency telephone system.

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

Section 1. NRS 244A.7641 is hereby amended to read as follows:

244A.7641 As used in NRS 244A.7641 to 244A.7647, inclusive, unless the context otherwise requires:

1. "Mobile telephone service" means cellular or other service to a telephone installed in a vehicle or which is otherwise portable.

2. "Place of primary use" has the meaning ascribed to it in 4 U.S.C. § 124(8), as that section existed on August 1, 2002.

3. "Supplier" means a person authorized by the Federal Communications Commission to provide mobile telephone service.

4. "Telephone system" means a system for transmitting information between or among points specified by the user that does not change the form or content of the information regardless of the technology, facilities or equipment used. A telephone system may include, without limitation:

(a) Wireless or Internet technology, facilities or equipment; and

(b) Technology, facilities or equipment used for transmitting information from an emergency responder to the user or from the user to an emergency responder.

Sec. 2. NRS 244A.7643 is hereby amended to read as follows:

244A.7643 1. Except as otherwise provided in this section, the board of county commissioners in a county whose population is 100,000 or more but less than 400,000 may by ordinance, for the enhancement of the telephone system for reporting an emergency in the county, impose a surcharge on:

(a) Each access line or trunk line of each customer to the local exchange of any telecommunications provider providing those lines in the county; and

(b) The mobile telephone service provided to each customer of that service whose place of primary use is in the county.

2. Except as otherwise provided in this section, the board of county commissioners in a county whose population is less than 100,000 may by ordinance, for the enhancement or improvement of the telephone system for reporting an emergency in the county, impose a surcharge on:

(a) Each access line or trunk line of each customer to the local exchange of any telecommunications provider providing those lines in the county; and

(b) The mobile telephone service provided to each customer of that service whose place of primary use is in the county.

3. ~~[The] A board of county commissioners [of a county whose population is less than 100,000]~~ may not impose a surcharge pursuant to this section unless the board first adopts a 5-year master plan for the enhancement or improvement, *as applicable*, of the telephone system for reporting emergencies in the county. The master plan must include an estimate of the cost of the enhancement or improvement, *as applicable*, of the telephone system and all proposed sources of money for funding ~~[the enhancement or improvement.]~~ *those costs. For the duration of the imposition of the surcharge, the board shall, at least annually, review and, if necessary, update the master plan.*

4. The surcharge imposed by a board of county commissioners pursuant to this section:

(a) For each access line to the local exchange of a telecommunications provider, must not exceed 25 cents each month;

(b) For each trunk line to the local exchange of a telecommunications provider, must equal 10 times the amount of the surcharge imposed for each access line to the local exchange of a telecommunications provider pursuant to paragraph (a); and

(c) For each telephone number assigned to a customer by a supplier of mobile telephone service, must equal the amount of the surcharge imposed for each access line to the local exchange of a telecommunications provider pursuant to paragraph (a).

5. A telecommunications provider which provides access lines or trunk lines in a county which imposes a surcharge pursuant to this section or a supplier which provides mobile telephone service to a customer in such a county shall collect the surcharge from its customers each month. Except as otherwise provided in NRS 244A.7647, the telecommunications provider or supplier shall remit the surcharge it collects to the treasurer of the county in which the surcharge is imposed not later than the 15th day of the month after the month it receives payment of the surcharge from its customers.

6. An ordinance adopted pursuant to subsection 1 or 2 may include a schedule of penalties for the delinquent payment of amounts due from telecommunications providers or suppliers pursuant to this section. Such a schedule:

(a) Must provide for a grace period of not less than 90 days after the date on which the telecommunications provider or supplier must otherwise remit the surcharge to the county treasurer; and

(b) Must not provide for a penalty that exceeds 5 percent of the cumulative amount of surcharges owed by a telecommunications provider or a supplier.

7. As used in this section, "trunk line" means a line which provides a channel between a switchboard owned by a customer of a telecommunications provider and the local exchange of the telecommunications provider.

~~[Sec. 2.]~~ Sec. 3. NRS 244A.7645 is hereby amended to read as follows:

244A.7645 1. If a surcharge is imposed pursuant to NRS 244A.7643 in a county whose population is 100,000 or more but less than 400,000, the board of county commissioners of that county shall establish by ordinance an advisory committee to develop a plan to enhance the telephone system for reporting an emergency in that county and to oversee any money allocated for that purpose. The advisory committee must consist of not less than five members who:

- (a) Are residents of the county;
- (b) Possess knowledge concerning telephone systems for reporting emergencies; and
- (c) Are not elected public officers.

2. If a surcharge is imposed pursuant to NRS 244A.7643 in a county whose population is less than 100,000, the board of county commissioners of that county shall establish by ordinance an advisory committee to develop a plan to enhance or improve the telephone system for reporting an emergency in that county and to oversee any money allocated for that purpose. The advisory committee must:

- (a) Consist of not less than five members who:
  - (1) Are residents of the county;
  - (2) Possess knowledge concerning telephone systems for reporting emergencies; and
  - (3) Are not elected public officers; and
- (b) Include a representative of an incumbent local exchange carrier which provides service to persons in that county. As used in this paragraph, "incumbent local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section.

3. If a surcharge is imposed in a county pursuant to NRS 244A.7643, the board of county commissioners of that county shall create a special revenue fund of the county for the deposit of the money collected pursuant to NRS 244A.7643. The money in the fund must be used ~~for~~ only:

(a) ~~In a county whose population is 100,000 or more but less than 400,000, only to enhance the telephone system for reporting an emergency in the county.~~

~~(b) In a county whose population is less than 100,000, only:~~

~~(1) To 40,000 or more but less than 400,000, to enhance the telephone system for reporting an emergency, so that the number and address from~~

~~which a call received by the system is made may be determined,~~ including only:

(1) ~~##~~ Paying recurring and nonrecurring charges for telecommunication services necessary for the operation of the enhanced telephone system;

(2) ~~##~~ Paying costs for personnel and training associated with the routine maintenance and updating of the database for the system;

(3) ~~##~~ Purchasing, leasing or renting the equipment and software necessary to operate the enhanced telephone system ~~to~~ including, without limitation, equipment and software that identify the number or location from which a call is made; and

(4) ~~##~~ Paying costs associated with any maintenance, upgrade and replacement of equipment and software necessary for the operation of the enhanced telephone system.

(b) In a county whose population is less than ~~100,000, to~~ ~~40,000, to~~ improve the telephone system for reporting an emergency in the county.

4. *If the balance in the fund created in a county whose population is ~~100,000~~ 40,000 or more but less than 400,000 pursuant to subsection 3 which has not been committed for expenditure exceeds \$1,000,000 at the end of any fiscal year, the board of county commissioners shall reduce the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$1,000,000.*

5. *If the balance in the fund created in a county whose population is less than ~~100,000~~ 40,000 pursuant to subsection 3 which has not been committed for expenditure exceeds \$500,000 at the end of any fiscal year, the board of county commissioners shall reduce the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$500,000.*

~~Sec. 3.~~ *Sec. 4.* This act becomes effective upon passage and approval.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 188 to Senate Bill 59 provides a clarifying definition of "telephone system." It expands the use of the surcharge funds for the purposes of enhancing a telephone system for reporting emergencies to those counties whose population is over 40,000, rather than just Washoe County. Additionally, it expands the county population threshold as it relates to the fund for surcharge proceeds to allow counties whose populations are 40,000 or more to save up to \$1 million in the fund.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 66.

Bill read second time.

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

Amendment No. 34.

"SUMMARY—~~[Allows for longer periods to complete work and apply water to a beneficial use for certain municipal and quasi-municipal uses.]~~ Revises certain provisions governing the appropriation of water. (BDR 48-618)"

"AN ACT relating to water; ~~[allowing longer periods for the completion of work and the application of water to a beneficial use for certain municipal and quasi-municipal uses;]~~ providing that certain uses of water from the Muddy River and the Virgin River are beneficial uses of that water; authorizing the State Engineer to grant extensions of time for not more than a certain period ~~[to complete the]~~ for the completion of work or ~~[apply]~~ the application of water to ~~[those uses;]~~ a beneficial use; revising the circumstances under which the fee for filing an application for an extension of time must be paid; setting forth the circumstances under which an order or decision of the State Engineer may be stayed; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, subject to existing rights, all water in this State may be appropriated for beneficial use in accordance with the provisions of chapter 533 of NRS. (NRS 533.030) Section 1 of this bill provides that the use of water from the Muddy River or the Virgin River to create any developed shortage supply or intentionally created surplus, as defined in certain guidelines established by the United States Department of the Interior, is a beneficial use of that water for purposes of that chapter.

Existing law requires an applicant for water rights to complete construction of work and put water to beneficial use within specified periods, with extensions of time allowed under certain circumstances. (NRS 533.380) Section ~~[1]~~ 2 of this bill ~~[allows for more]~~ authorizes the State Engineer to grant any number of extensions of time to complete the work [associated with certain municipal and quasi-municipal uses of water and to file proof of] or to make beneficial use of the water ~~[. Section 1 also allows the State Engineer to approve extensions of up to] .~~ but limits any single extension of time for a municipal or quasi-municipal use for a public water system to not more than 5 years [to complete the work or file that proof.] and any other single extension of time to not more than 1 year.

Existing law sets forth the fee for filing an application for an extension of time to file a proof of completion of work or proof of beneficial use. (NRS 533.435) Section ~~[2]~~ 3 of this bill specifies that the fee must be paid for each year for which an extension of time is sought.

Existing law sets forth the manner in which a person who is aggrieved by an order or decision of the State Engineer may appeal that order or decision

to the appropriate court. (NRS 533.450) Section 4 of this bill sets forth the manner in which the order or decision of the State Engineer may be stayed during the appeal of the order or decision.

Existing law specifies the jurisdiction of the Colorado River Commission of Nevada concerning water and water rights in this State and the extent to which the appropriation and use of that water is not subject to regulation by the State Engineer. (NRS 538.171) Section 5 of this bill specifies that any use of water from the Muddy River or the Virgin River to create any developed shortage supply or intentionally created surplus is not subject to regulation by the State Engineer.

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

*Section 1. NRS 533.030 is hereby amended to read as follows:*

533.030 1. Subject to existing rights, and except as otherwise provided in this section, all water may be appropriated for beneficial use as provided in this chapter and not otherwise.

2. The use of water, from any stream system as provided in this chapter and from underground water as provided in NRS 534.080, for any recreational purpose, or the use of water from the Muddy River or the Virgin River to create any developed shortage supply or intentionally created surplus, is hereby declared to be a beneficial use. As used in this subsection:

(a) "Developed shortage supply" has the meaning ascribed to it in Volume 73 of the Federal Register at page 19,884, April 11, 2008, and any subsequent amendment thereto.

(b) "Intentionally created surplus" has the meaning ascribed to it in Volume 73 of the Federal Register at page 19,884, April 11, 2008, and any subsequent amendment thereto.

3. Except as otherwise provided in subsection 4, in any county whose population is 400,000 or more:

(a) The board of county commissioners may prohibit or restrict by ordinance the use of water and effluent for recreational purposes in any man-made lake or stream located within the unincorporated areas of the county.

(b) The governing body of a city may prohibit or restrict by ordinance the use of water and effluent for recreational purposes in any man-made lake or stream located within the boundaries of the city.

4. In any county whose population is 400,000 or more, the provisions of subsection 1 and of any ordinance adopted pursuant to subsection 3 do not apply to:

(a) Water stored in a man-made reservoir for use in flood control, in meeting peak water demands or for purposes relating to the treatment of sewage;

(b) Water used in a mining reclamation project; or

(c) A body of water located in a recreational facility that is open to the public and owned or operated by the United States or the State of Nevada.

~~[Section 1.]~~ Sec. 2. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, ~~subsections 2, 3 and 7,~~ in his endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set ~~Set~~ a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval.

~~2.]~~ The time set under this paragraph respecting an application for a permit to apply water to ~~paragraph (a) of subsection 1 for the completion of construction of the work must be within 10 years after the date of approval for~~ a municipal or quasi-municipal use on any land:

(1) ~~(a)~~ For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) ~~(b)~~ For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for

~~(c) For~~ which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS.

~~3.— The time set under paragraph (b) of subsection 1 with regard to an application for a permit to apply water to a municipal or quasi-municipal use on any land referred to in subsection 2]~~

↪ must not be less than 5 years.

2. for more than 20 years.

~~4.]~~ The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of ~~the~~ work, and, except as otherwise provided in paragraph (b) of subsection 1, ~~subsection 3,~~ to a shorter time for the perfecting of the application than named in the application.

3. ~~5.]~~ Except as otherwise provided in subsection 4 ~~6]~~ and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, ~~extend the~~ grant any number of extensions of time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by him, but ~~an~~ a single extension of time for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235, must not exceed 5 years, and any other single extension of time must not exceed 1 year. An application for the extension must in all cases be:

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

↳ The State Engineer shall not grant an extension of time unless he determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4 ~~#6#~~ Except as otherwise provided in subsection 5 ~~#7#~~ and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, ~~subsections 2 and 3,~~ or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to ~~complete construction of the work or to~~ apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

↳ if any, for completing the development of the land.

5 ~~Each extension of time granted to a holder of a permit pursuant to this subsection must not exceed 5 years after the holder was required to complete construction of the work or to apply the water to a beneficial use, or after the time to which the period for completion of construction or application to beneficial use has been previously extended.~~

~~7#~~ The provisions of subsections 1 and 4 ~~#6#~~ do not apply to an environmental permit.

6 ~~#8#~~ For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is ~~comprised~~ *composed* of several features, work on one feature of the project or system may be

considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

~~[Sec. 2]~~ Sec. 3. NRS 533.435 is hereby amended to read as follows:

533.435 1. The State Engineer shall collect the following fees:

For examining and filing an application for a permit to appropriate water ..... \$250.00

This fee includes the cost of publication, which is \$50.

For examining and acting upon plans and specifications for construction of a dam..... 500.00

For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right..... 150.00

This fee includes the cost of the publication of the application, which is \$50.

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes ..... 150.00

plus \$2 per acre-foot approved or fraction thereof.

For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only, or for irrigational purposes which change the point of diversion or place of use only ..... 100.00

plus \$2 per acre-foot approved or fraction thereof.

For issuing and recording each permit to change the point of diversion or place of use only of an existing right whether temporary or permanent for irrigational purposes ..... \$200.00

For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right only whether temporary or permanent for watering livestock or wildlife purposes for each second-foot of water approved or fraction thereof ..... 50.00

For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water for each second-foot of water approved or fraction thereof..... 100.00

This fee must not exceed \$1,000.

For filing a secondary application under a reservoir permit ..... 200.00

For approving and recording a secondary permit under a reservoir permit.....	200.00
For reviewing each tentative subdivision map.....	150.00
plus \$1 per lot.	
For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet ...	100.00
plus \$1 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For filing proof of completion of work.....	10.00
For filing proof of beneficial use .....	50.00
For filing any protest.....	25.00
For filing any application for extension of time within which to file proofs , <i>for each year for which the extension of time is sought</i> .....	100.00
For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384.....	25.00
plus \$10 per conveyance document	
For filing any other instrument .....	1.00
For making a copy of any document recorded or filed in his office, for the first page.....	1.00
For each additional page .....	.20
For certifying to copies of documents, records or maps, for each certificate .....	\$1.00
For each blueprint copy of any drawing or map, per square foot.....	.50
The minimum charge for a blueprint copy, per print .....	3.00

2. When fees are not specified in subsection 1 for work required of his office, the State Engineer shall collect the actual cost of the work.

3. Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the *State* General Fund. All fees received for blueprint copies of any drawing or map must be kept by him and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by him for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, he shall deposit the fees in the State Treasury for credit to the *State* General Fund. The State Engineer may maintain, with the approval of the State Board of Examiners, a checking account in any bank or credit union qualified to handle state money to carry out the provisions of this subsection. The account must be secured by a depository bond satisfactory to the State Board of Examiners to the extent the account is not insured by the

Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

*Sec. 4. NRS 533.450 is hereby amended to read as follows:*

533.450 1. Any person feeling himself aggrieved by any order or decision of the State Engineer, acting in person or through his assistants or the water commissioner, affecting his interests, when the order or decision relates to the administration of determined rights or is made pursuant to NRS 533.270 to 533.445, inclusive, or NRS 533.481, 534.193, 535.200 or 536.200, may have the same reviewed by a proceeding for that purpose, insofar as may be in the nature of an appeal, which must be initiated in the proper court of the county in which the matters affected or a portion thereof are situated, but on stream systems where a decree of court has been entered, the action must be initiated in the court that entered the decree. The order or decision of the State Engineer remains in full force and effect unless proceedings to review the same are commenced in the proper court within 30 days after the rendition of the order or decision in question and notice thereof is given to the State Engineer as provided in subsection 3.

2. The proceedings in every case must be heard by the court, and must be informal and summary, but full opportunity to be heard must be had before judgment is pronounced.

3. No such proceedings may be entertained unless notice thereof, containing a statement of the substance of the order or decision complained of, and of the manner in which the same injuriously affects the petitioner's interests, has been served upon the State Engineer, personally or by registered or certified mail, at his office at the State Capital within 30 days following the rendition of the order or decision in question. A similar notice must also be served personally or by registered or certified mail upon the person who may have been affected by the order or decision.

4. Where evidence has been filed with, or testimony taken before, the State Engineer, a transcribed copy thereof, or of any specific part of the same, duly certified as a true and correct transcript in the manner provided by law, must be received in evidence with the same effect as if the reporter were present and testified to the facts so certified. A copy of the transcript must be furnished on demand, at actual cost, to any person affected by the order or decision, and to all other persons on payment of a reasonable amount therefor, to be fixed by the State Engineer.

5. An order or decision of the State Engineer must not be stayed unless the petitioner files a written motion for a stay with the court and serves the motion personally or by registered or certified mail upon the State Engineer, the applicant or other real party in interest and each party of record within 10 days after the petitioner files the petition for judicial review. Any party may oppose the motion and the petitioner may reply to any such opposition. In determining whether to grant or deny the motion for a stay, the court shall consider:

(a) Whether any nonmoving party to the proceeding may incur any harm or hardship if the stay is granted;

(b) Whether the petitioner may incur any irreparable harm if the stay is denied;

(c) The likelihood of success of the petitioner on the merits; and

(d) Any potential harm to the members of the public if the stay is granted.

6. Except as otherwise provided in this subsection, the petitioner must file a bond in an amount determined by the court, with sureties satisfactory to the court and conditioned in the manner specified by the court. The bond must be filed within 5 days after the court determines the amount of the bond pursuant to this subsection. If the petitioner fails to file the bond within that period, the stay is automatically denied. A bond must not be required ~~except when a stay is desired, and the proceedings provided for in this section are not a stay unless, within 5 days after the service of notice thereof, a bond is filed in an amount to be fixed by the court, with sureties satisfactory to the court, conditioned to perform the judgment rendered in the proceedings.~~

~~6.]~~ for a public agency of this State or a political subdivision of this State.

7. Costs must be paid as in civil cases brought in the district court, except by the State Engineer or the State.

~~7.]~~ 8. The practice in civil cases applies to the informal and summary character of such proceedings, as provided in this section.

~~8.]~~ 9. Appeals may be taken to the Supreme Court from the judgment of the district court in the same manner as in other civil cases.

~~9.]~~ 10. The decision of the State Engineer is prima facie correct, and the burden of proof is upon the party attacking the same.

~~10.]~~ 11. Whenever it appears to the State Engineer that any litigation, whether now pending or hereafter brought, may adversely affect the rights of the public in water, he shall request the Attorney General to appear and protect the interests of the State.

*Sec. 5. NRS 538.171 is hereby amended to read as follows:*

538.171 1. The Commission shall receive, protect and safeguard and hold in trust for the State of Nevada all water and water rights, and all other rights, interests or benefits in and to the waters described in NRS 538.041 to 538.251, inclusive, and to the power generated thereon, held by or which may accrue to the State of Nevada under and by virtue of any Act of the Congress of the United States or any agreements, compacts or treaties to which the State of Nevada may become a party, or otherwise.

2. Except as otherwise provided in this subsection, applications for the original appropriation of such waters, or to change the place of diversion, manner of use or place of use of water covered by the original appropriation, must be made to the Commission in accordance with the regulations of the Commission. In considering such an application, the Commission shall use the criteria set forth in subsection 6 of NRS 533.370. The Commission's action on the application constitutes the recommendation of the State of Nevada to the United States for the purposes of any federal action on the

matter required by law. The provisions of this subsection do not apply to supplemental water.

3. The Commission shall furnish to the State Engineer a copy of all agreements entered into by the Commission concerning the original appropriation and use of such waters. It shall also furnish to the State Engineer any other information it possesses relating to the use of water from the Colorado River which the State Engineer deems necessary to allow him to act on applications for permits for the subsequent appropriation of these waters after they fall within the State Engineer's jurisdiction.

4. Notwithstanding any provision of chapter 533 of NRS, any original appropriation and use of the waters described in subsection 1 by the Commission or by any entity to whom or with whom the Commission has contracted the water, or any use of water from the Muddy River or the Virgin River to create any developed shortage supply or intentionally created surplus, is not subject to regulation by the State Engineer. As used in this subsection:

(a) "Developed shortage supply" has the meaning ascribed to it in NRS 533.030.

(b) "Intentionally created surplus" has the meaning ascribed to it in NRS 533.030.

~~Sec. 3.~~ Sec. 6. This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 34 to Senate Bill 66 provides a declaration of beneficial use of water from the Muddy River and Virgin River as it relates to intentionally created surplus or developed shortage supply as set forth by the U.S. Department of the Interior and clarifies that such use is not regulated by the State Engineer. It clarifies that the time granted by the State Engineer for the completion of construction work and the related application of water to a beneficial use can be extended for up to five years for extensions relating to a municipal or quasi-municipal use for a public water system. Other extensions must not exceed one year. The amendment also clarifies the circumstances in which a court may issue a stay relating to an order or decision of the State Engineer, including a list of factors the court may consider when deciding to grant or deny a motion for a stay.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 70.

Bill read second time.

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

Amendment No. 132.

"SUMMARY—Requires certain offices of physicians and related facilities to obtain a permit under certain circumstances and requires annual inspections of surgical centers for ambulatory patients. (BDR 40-169)"

"AN ACT relating to public health; requiring certain offices of physicians and related facilities to obtain a permit before providing certain services

involving anesthesia and sedation; *providing an exception for certain offices and facilities*; requiring annual inspections of such offices and facilities; requiring annual inspections of surgical centers for ambulatory patients; requiring that copies of certain reports relating to the use of anesthesia and sedation by physicians and osteopathic physicians be submitted to the Health Division of the Department of Health and Human Services; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain medical facilities, including hospitals, psychiatric hospitals, community triage centers and surgical centers for ambulatory patients, to be licensed by the Health Division of the Department of Health and Human Services. (NRS 449.030)

Sections ~~8-10~~ *9-11* of this bill require offices of physicians or other facilities providing health care that are not licensed as a medical facility by the Health Division to obtain a permit from the Division before offering to patients services of general anesthesia, conscious sedation or deep sedation and prescribe the procedure for obtaining such a permit. Section ~~11~~ *12* of this bill requires the Health Division to conduct annual, unannounced inspections of those offices and facilities.

Section ~~12~~ *13* of this bill prescribes the sanctions which the Health Division may impose for a violation of sections 3-~~13~~ *14* of this bill by an office or facility.

Section ~~13~~ *14* of this bill requires the State Board of Health to prescribe regulations to carry out the provisions of sections 3-~~13~~ *14* of this bill, including the fees for the issuance and renewal of permits. The regulations adopted by the State Board are subject to review by the Legislative Committee on Health Care. (NRS 439B.225)

*Section 8 of this bill provides that sections 3-14 of this bill do not apply to an office of a physician or other facility that is not licensed as a medical facility if the office or facility only administers oral medications to a patient to relieve the patient's anxiety or pain in certain circumstances.*

Section ~~14~~ *15* of this bill requires the Health Division to conduct annual, unannounced inspections of surgical centers for ambulatory patients.

Existing law requires the holder of a license to practice medicine or osteopathic medicine to submit a report stating the number and types of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or certain other facilities. (NRS 630.30665, 633.524) Sections ~~19~~ *20* and ~~22~~ *23* of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to forward to the Health Division such reports.

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

Section 1. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for ~~licensing~~ *the issuance*

or renewal of licenses, permits or certificates of registration ~~for for the renewal of licenses or certificates of registration~~ pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS.

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for ~~licensing~~ *the issuance or renewal of licenses, permits or certificates of registration* ~~for to the renewal of a license or certificate of registration~~ issued to a person or facility regulated by the board, giving consideration to:

- (a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;
- (b) The effect of the regulation on the cost of health care in this State;
- (c) The effect of the regulation on the number of licensed, *permitted* or registered persons and facilities available to provide services in this State; and
- (d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to ~~14,~~ 15, inclusive, of this act.

Sec. 3. *As used in sections 3 to ~~13,~~ 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.*

Sec. 5. *"Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.*

Sec. 6. *"General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.*

Sec. 7. *"Physician" means a person who is licensed to practice medicine pursuant to chapter 630 of NRS or osteopathic medicine pursuant to chapter 633 of NRS.*

*Sec. 8. The provisions of sections 3 to 14, inclusive, of this act do not apply to an office of a physician or a facility that provides health care, other than a medical facility, if the office of a physician or the facility only administers an oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.*

~~[Sec. 8.]~~ *Sec. 9. 1. An office of a physician or a facility that provides health care, other than a medical facility, shall obtain a permit pursuant to section ~~10~~ 10 of this act before offering to a patient a service of general anesthesia, conscious sedation or deep sedation.*

2. An office of a physician or a facility that provides health care, other than a medical facility, which operates at more than one location shall obtain a permit for each location where a service of general anesthesia, conscious sedation or deep sedation is offered.

~~[Sec. 9.]~~ *Sec. 10. 1. An office of a physician or a facility that provides health care, other than a medical facility, desiring a permit pursuant to sections 3 to ~~13~~ 14, inclusive, of this act must submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for a permit.*

2. Upon receipt of an application and the appropriate fee, the Health Division may, after conducting an inspection pursuant to section ~~11~~ 12 of this act, issue a permit pursuant to this section.

3. A permit issued pursuant to this section expires 1 year after the date of issuance and is renewable pursuant to section ~~10~~ 11 of this act.

~~[Sec. 10.]~~ *Sec. 11. 1. The holder of a permit issued pursuant to section ~~10~~ 10 of this act may annually submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for renewal of the permit before the date on which the permit expires.*

2. Upon receipt of an application for renewal and the accompanying fee, the Health Division may renew a permit.

~~[Sec. 11.]~~ *Sec. 12. 1. The Health Division shall, before issuing a permit pursuant to section ~~10~~ 10 of this act, and at least annually thereafter, conduct an inspection of each office of a physician or facility that applies for or holds a permit pursuant to sections 3 to ~~13~~ 14, inclusive, of this act. The Health Division shall not provide advance notice of an inspection conducted pursuant to this section.*

2. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the office of the physician or the facility where the inspection was conducted.

3. If a deficiency is indicated in the report, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to section ~~113~~ 14 of this act.

4. The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which must include:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to inspections deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

~~Sec. 12.~~ Sec. 13. 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of sections 3 to ~~113~~ 14, inclusive, of this act, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to section ~~111~~ 12 of this act, the Health Division, in accordance with the regulations adopted pursuant to section ~~113~~ 14 of this act, may take any of the following actions:

(a) Decline to issue or renew a permit;

(b) Suspend or revoke a permit; or

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.

2. The Health Division may review a report submitted pursuant to NRS 630.30665 or 633.524 to determine whether an office of a physician or a facility is in violation of the provisions of sections 3 to ~~113~~ 14, inclusive, of this act or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.

~~Sec. 13.~~ Sec. 14. 1. The Board shall adopt regulations to carry out the provisions of sections 3 to ~~113~~ 14, inclusive, of this act, including, without limitation, regulations prescribing:

(a) The amount of the fee required for applications for the issuance and renewal of a permit pursuant to sections ~~101~~ 10 and ~~110~~ 11 of this act.

(b) The procedures and standards for the issuance and renewal of a permit.

(c) The procedures and time frame for correcting each deficiency indicated in a report pursuant to section ~~111~~ 12 of this act.

(d) The criteria for the imposition of each sanction prescribed by section ~~112~~ 13 of this act, including, without limitation:

(1) Setting forth the circumstances and manner in which a sanction applies;

(2) *Minimizing the time between the identification of a violation and the imposition of a sanction; and*

(3) *Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.*

2. *The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit issued pursuant to sections 3 to ~~13~~ 14, inclusive, of this act provide adequately for the protection of the health, safety and well-being of patients.*

~~Sec. 14.~~ Sec. 15. 1. *The Health Division shall, at least annually, conduct an unannounced inspection of each surgical center for ambulatory patients to ensure compliance with all applicable state and federal laws and state and federal regulations and standards.*

2. *The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which must include:*

(a) *The number and frequency of inspections of surgical centers for ambulatory patients conducted pursuant to this chapter or the regulations adopted pursuant thereto;*

(b) *A summary of deficiencies or other significant problems discovered while conducting such inspections and the results of any follow-up inspections; and*

(c) *Any other information relating to inspections of surgical centers for ambulatory patients deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.*

~~Sec. 15.~~ Sec. 16. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. At least 30 days before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation , an agency shall deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for ~~licensing~~ *the issuance or renewal of licenses, permits or certificates of*

registration ~~for for the renewal of a license or a certificate of registration~~ issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

~~Sec. 16.~~ *Sec. 17.* 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 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~~ *the issuance or renewal of licenses, permits or certificates of registration* ~~for 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. 17.]~~ Sec. 18. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:*

(a) *In an office of a physician or osteopathic physician which holds a permit pursuant to sections 3 to ~~13.] 14,~~ inclusive, of this act;*

(b) *In a facility which holds a permit pursuant to sections 3 to ~~13.] 14,~~ inclusive, of this act;*

(c) *In a medical facility as that term is defined in NRS 449.0151; or*

(d) *Outside of this State.*

2. *As used in this section:*

(a) *"Conscious sedation" has the meaning ascribed to it in section 4 of this act.*

(b) *"Deep sedation" has the meaning ascribed to it in section 5 of this act.*

(c) *"General anesthesia" has the meaning ascribed to it in section 6 of this act.*

~~Sec. 18.]~~ Sec. 19. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:
    - (a) Which is intended to deceive;
    - (b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or
    - (c) Which is in violation of a regulation adopted by the State Board of Pharmacy.
  3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.
  4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.
  5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform.
  6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.
  7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.
  8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.
  9. Failing to comply with the requirements of NRS 630.254.
  10. Habitual intoxication from alcohol or dependency on controlled substances.
  11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.
  12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.
  13. *Failure to comply with the requirements of section ~~17~~ 18 of this act.*
- ~~{Sec. 19.}~~ *Sec. 20.* NRS 630.30665 is hereby amended to read as follows:
- 630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:
- (a) At a medical facility as that term is defined in NRS 449.0151; or
  - (b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the Administrator of the Health Division ~~{of the Department of Health and Human Services}~~ for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the ~~{report}~~ reports required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 8 of NRS 630.306.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; ~~{and}~~

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access ~~{-}~~; and

(c) *Submit to the Health Division a copy of the reports submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.*

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. As used in this section:

(a) "Conscious sedation" ~~{means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method,~~

~~or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.] has the meaning ascribed to it in section 4 of this act.~~

~~(b) "Deep sedation" [means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.] has the meaning ascribed to it in section 5 of this act.~~

~~(c) "General anesthesia" [means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.] has the meaning ascribed to it in section 6 of this act.~~

~~(d) "Health Division" has the meaning ascribed to it in NRS 449.009.~~

~~(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.~~

~~[Sec. 20.]~~ Sec. 21. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An osteopathic physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:*

*(a) In an office of a physician or osteopathic physician which holds a permit pursuant to sections 3 to ~~13~~ 14, inclusive, of this act;*

*(b) In a facility which holds a permit pursuant to sections 3 to ~~13~~ 14, inclusive, of this act;*

*(c) In a medical facility as that term is defined in NRS 449.0151; or*

*(d) Outside of this State.*

2. *As used in this section:*

*(a) "Conscious sedation" has the meaning ascribed to it in section 4 of this act.*

*(b) "Deep sedation" has the meaning ascribed to it in section 5 of this act.*

*(c) "General anesthesia" has the meaning ascribed to it in section 6 of this act.*

~~[Sec. 21.]~~ Sec. 22. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.
2. Conviction of:

(a) 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;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. Gross or repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. *Failure to comply with the requirements of section ~~20~~ 21 of this act.*

~~[Sec. 22.]~~ Sec. 23. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the Administrator of the Health Division ~~[of the Department of Health and Human Services]~~ for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the ~~[report]~~ reports required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a

report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; ~~and~~

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access ~~[-]~~; and

(c) *Submit to the Health Division a copy of the reports submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.*

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

7. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. As used in this section:

(a) "Conscious sedation" ~~[means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.]~~ *has the meaning ascribed to it in section 4 of this act.*

(b) "Deep sedation" ~~[means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.]~~ *has the meaning ascribed to it in section 5 of this act.*

(c) "General anesthesia" ~~[means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a~~

~~combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.] has the meaning ascribed to it in section 6 of this act.~~

(d) "Health Division" has the meaning ascribed to it in NRS 449.009.

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

~~[Sec. 23.]~~ Sec. 24. On or before January 1, 2010, the State Board of Health shall adopt regulations required by section ~~[13]~~ 14 of this act.

~~[Sec. 24.]~~ Sec. 25. 1. This section and sections 1, ~~[13, 15, 16 and 23]~~ 14, 16, 17 and 24 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

2. Section ~~[14]~~ 15 of this act becomes effective on October 1, 2009.

3. Sections 2 to ~~[12,]~~ 13, inclusive, and ~~[17 to 22,]~~ 18 to 23, inclusive, of this act become effective on October 1, 2010.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 132 to Senate Bill No. 70 provides an exemption from certain requirements, including the requirement to receive a permit, for an office of a physician or other facility that is not licensed as a medical facility, if the office or facility only administers oral medications to a patient to relieve the patient's anxiety or pain in certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 74.

Bill read second time.

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

Amendment No. 3.

"SUMMARY—Makes various changes relating to assistance to finance housing. (BDR S-699)"

"AN ACT relating to assistance to finance housing; removing the prospective expiration of certain provisions relating to the use of various financial techniques by the Housing Division of the Department of Business and Industry; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

In 2001 and 2003, the Legislature temporarily authorized the Housing Division of the Department of Business and Industry to utilize various techniques, including, without limitation, entering into certain agreements to hedge its interest rate risk, issuing certain letters of credit,

acquiring real estate and making both insured and uninsured loans, in carrying out its mission of encouraging and providing for the development of affordable housing in this State. (NRS 319.140, 319.167, 319.190, 319.200, 319.210) This bill repeals the prospective expiration of those provisions, which are currently set to expire by limitation on July 1, 2009.

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

Section 1. Section 8 of chapter 418, Statutes of Nevada 2001, as amended by chapter 383, Statutes of Nevada 2003, at page 2194, is hereby amended to read as follows:

Sec. 8. This act becomes effective on July 1, 2001 . ~~[, and expires by limitation on July 1, 2009.]~~

Sec. 2. Section 8 of chapter 383, Statutes of Nevada 2003, at page 2194, is hereby amended to read as follows:

Sec. 8. ~~[1.]~~ This section and sections 1, 3, 5, 6 and 7 of this act become effective on July 1, 2003.

~~[2. Sections 1 and 3 of this act expire by limitation on June 30, 2009.~~

~~[3. Sections 2 and 4 of this act become effective on July 1, 2009.]~~

*Sec. 2.5. Sections 2 and 4 of chapter 383, Statutes of Nevada 2003, at page 2192, are hereby repealed.*

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

*TEXT OF REPEALED SECTIONS*

*Section 2 of chapter 383, Statutes of Nevada 2003:*

Sec. 2. NRS 319.140 is hereby amended to read as follows:

319.140 1. The Division shall administer the provisions of this chapter. The Administrator may adopt, amend or rescind regulations, consistent with the provisions of this chapter, appropriate to carry out its purposes.

2. The Administrator may make copies of all proceedings and other records and documents of the Division and issue certificates under the seal of the Division to the effect that the copies are true copies, and all persons dealing with the Division may rely upon such certificates.

3. The Division may ~~[employ]~~ :

(a) *Employ* or contract for the services of attorneys, accountants, financial experts and any other advisers, employees, consultants and agents as the Administrator may determine to be necessary ~~[;]~~ ; and

(b) *Develop or purchase, lease or otherwise acquire one or more information systems that the Division determines are necessary or convenient for the exercise of its powers and duties pursuant to this chapter and acquire any consulting, support or other service for such information systems.*

4. Before September 1 of each even-numbered year, the Division shall submit a report of its activities for the biennium ending June 30 of that year to the Governor, State Treasurer and the Legislature. Each such report ~~shall~~ *must* set forth a complete operating and financial statement of the Division during such biennium. The Division shall cause an audit of its books and accounts to be made at least once in each fiscal year by a certified public accountant. The certified public accountant may audit the Division's books and accounts for consecutive audit periods as requested by the Division.

Section 4 of chapter 383, Statutes of Nevada 2003:

Sec. 4. NRS 319.190 is hereby amended to read as follows:

319.190 1. The Division may make, undertake commitments to make and participate with lending institutions in the making of mortgage loans ~~and~~ *and may* make temporary loans and advances in anticipation of mortgage loans ~~and issue letters of credit pursuant to subsection 2~~ to finance the acquisition, construction or rehabilitation of residential housing, including , *without limitation*, multifamily housing. Any loan made by the Division pursuant to this section must be insured or guaranteed unless it is financed by an issue of obligations of the Division that are insured or secured by surety bonds, letters of credit not issued by the Division, guaranties or other means of assuring repayment of those obligations. Such loans may be made ~~for letters of credit issued~~ only after a determination by the Administrator that mortgage loans ~~for letters of credit~~ are not otherwise available from private lenders upon reasonable equivalent terms and conditions.

2. The Division may issue a letter of credit *to finance the acquisition, construction or rehabilitation of residential housing, including, without limitation, multifamily housing,* only if ~~sufficient~~ :

(a) *At the time a letter of credit is issued, the Division has a credit rating within one of the three highest rating categories of a nationally recognized rating agency;*

(b) *Sufficient reserves in the funds established by the Division are deposited in a separate account to be used to pay any liabilities that may be incurred by issuing the letter of credit* ~~and~~ ;

(c) *The aggregate amount of outstanding letters of credit issued by the Division ~~must~~ and the proposed letter of credit does not exceed \$5,000,000* ~~and~~ ; *and*

(d) *The Administrator has determined that a letter of credit is not otherwise available from a private lender upon reasonable equivalent terms and conditions.*

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This makes a technical drafting change by adding sections 2 and 4 of S.B. No. 78 of the 2003 Legislative Session as repealed provisions in the measure. Most notably, this change provides better conformity in the statutes because these sections are no longer needed if the sunset provisions regarding affordable-housing financing are removed in this bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 83.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 17.

"SUMMARY—Makes various changes relating to the regulation of gaming. (BDR 41-311)"

"AN ACT relating to gaming; revising the provisions concerning the establishment of branch offices of the State Gaming Control Board; revising the provisions relating to the confidentiality of certain information and data provided to or prepared by the Board and the Nevada Gaming Commission; authorizing the Board and Commission to require ~~the operators of certain call centers~~ certain persons to be found suitable or licensed; making changes relating to the registration of gaming employees; making changes concerning disseminators of live broadcasts of racing; making various other changes relating to the regulation of gaming; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill adds a new definition of the term "manufacture," and sections 3-5 of this bill revise the definitions of the terms "gaming device," "gaming employee" and "manufacturer" for the purposes of the statutory provisions governing the licensing and control of gaming. (NRS 463.0155, 463.0157, 463.0172)

Existing law authorizes the State Gaming Control Board to maintain branch offices in space provided by the Buildings and Grounds Division of the Department of Administration. Section 6 of this bill removes the requirement regarding the Division and instead authorizes the Chairman of the Board to enter into leases or other agreements necessary to establish branch offices of the Board. (NRS 463.100) Section 7 of this bill revises the provisions relating to the confidentiality of certain information and data provided to or prepared by the Board and the Nevada Gaming Commission, ~~and provides that such information and data is absolutely privileged.~~ (NRS 463.120) Section 8 of this bill deletes certain obsolete language relating to the reporting and keeping of records by casinos concerning transactions involving cash. (NRS 463.125)

Section 9 of this bill authorizes the Board and Commission to require a person ~~who~~ to be found suitable or licensed if the person: (1) operates a call center within this State as an agent of a licensed race book or sports pool ~~to~~

~~be found suitable or licensed.~~ ; or (2) *has invented, has developed or owns the intellectual property rights to a game for which approval by the Commission is being sought or has been received.* (NRS 463.162) Section 10 of this bill requires any person granted a license or found suitable by the Commission to continue to meet the applicable standards and qualifications originally needed for the license or finding of suitability. (NRS 463.170) Section 11 of this bill: (1) provides that a registered gaming employee must file a change of employment notice within 10 calendar days with the Board; and (2) authorizes the Board to charge a fee to process a change of employment notice, limited to the actual investigative and administrative costs related to processing the change of employment notice. (NRS 463.335) Section 12 of this bill changes the time within which an agent of the Board must mail written notice concerning a dispute between a patron and licensee from 30 days to 45 days after the date the Board first receives notification concerning the dispute. (NRS 463.362)

Sections 13-16 and 20 of this bill: (1) revise the process for notification to disseminators of live broadcasts of racing concerning certain proposals to broadcast racing meets; (2) delete references to the Account for the Operation of Hearing Panels; (3) authorize the Board to establish fees to be paid by a disseminator of a live broadcast, instead of a user; and (4) eliminate the requirement that the Commission is required to fix, regulate and control the rates to be charged by any disseminator of information concerning racing held at a track which uses the pari-mutuel system of wagering. (NRS 463.422, 463.423, 463.426, 463.445)

Section 17 of this bill provides that to the extent practicable, the provisions of the Nevada Gaming Control Act that apply to a limited partnership shall be deemed to apply to a registered limited-liability partnership or a foreign registered limited-liability partnership. (NRS 463.563)

~~Section 18 of this bill requires: (1) a person who is found unsuitable to hold the beneficial ownership of any voting security or beneficial or record ownership of any nonvoting security or debt security of a publicly traded corporation to immediately offer the security to the corporation for purchase; and (2) the corporation to purchase the security for cash at fair market value within the time prescribed by the Commission. (NRS 463.643)~~

*Section 18.5 of this bill authorizes the Commission to provide by regulation for: (1) the filing by manufacturers of reports and information governing independent contractors; (2) the registration of independent contractors; (3) procedures pursuant to which an independent contractor may be required to file an application for a finding of suitability; and (4) such other regulatory oversight of independent contractors as the Commission determines necessary and appropriate. (NRS 463.650)* Section 19 of this bill provides that: (1) no interest subject to the Nevada Gaming Control Act may be transferred to any heir or devisee from probate until the heir or devisee applies for and obtains all approvals necessary to hold or own such an interest from the Commission; and (2) if the heir or devisee fails to obtain all

such necessary approvals, the entity in which the interest exists must purchase the interest for cash at fair market value based upon two appraisals.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Manufacture" means:

(a) ~~Unless the circumstances described in paragraph (b) apply, to~~ To manufacture, produce, program, design, control the design of, maintain a copyright over or make modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system;

(b) To direct, control or assume responsibility for ~~manufacturing, producing, programming, designing, controlling the design of, maintaining a copyright over or making modifications to a~~ the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system; or

(c) To assemble, or control the assembly of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system.

2. As used in this section, "assume responsibility" means to acquire complete control over, or ownership of, the applicable gaming device, cashless wagering system, mobile gaming system or interactive gaming system.

Sec. 2. NRS 463.013 is hereby amended to read as follows:

463.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 463.0133 to 463.01967, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

Sec. 3. NRS 463.0155 is hereby amended to read as follows:

463.0155 "Gaming device" means any ~~equipment or mechanical, electromechanical or electronic contrivance, component or machine~~ ~~anything~~ object used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss ~~[-]~~ and which does not otherwise constitute associated equipment. The term includes ~~[-]~~, without limitation:

1. A slot machine.

2. A collection of two or more of the following components:

(a) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine;

(b) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;

(c) A storage medium containing ~~the source language or executable code of a computer program that cannot be reasonably demonstrated to have any use other than in a slot machine;~~

~~(d) An assembled video display unit;~~

~~(e) a control program;~~

(d) An assembled mechanical or electromechanical display unit intended for use in gambling; or

~~[(f)]~~ (e) An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.

3. ~~Any [mechanical, electrical or other device]~~ ~~[(Anything)]~~ *object* which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.

4. A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.

5. *A control program.*

6. Any combination of one of the components set forth in paragraphs (a) to ~~[(f)]~~ (e), inclusive, of subsection 2 and any other component which the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.

7. ~~Any [item]~~ *object that has been determined to be a gaming device pursuant to regulations adopted by the Commission.*

↪ *As used in this section, "control program" means any software, source language or executable code which affects the result of a wager by determining win or loss* ~~for which has been]~~ *as determined* ~~to be a control program]~~ *pursuant to regulations adopted by the Commission.*

Sec. 4. NRS 463.0157 is hereby amended to read as follows:

463.0157 1. "Gaming employee" means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

(a) Accounting or internal auditing personnel who are directly involved in any recordkeeping or the examination of records associated with revenue from gaming;

(b) Boxmen;

(c) Cashiers;

(d) Change personnel;

(e) Counting room personnel;

(f) Dealers;

(g) Employees of a person required by NRS 464.010 to be licensed to operate an off-track pari-mutuel system;

(h) Employees of a person required by NRS 463.430 to be licensed to disseminate information concerning racing ~~[(r)]~~ *and employees of an affiliate of such a person involved in assisting the person in carrying out the duties of the person in this State;*

(i) Employees whose duties are directly involved with the manufacture, repair, sale or distribution of gaming devices, cashless wagering systems, mobile gaming systems, equipment associated with mobile gaming systems, interactive gaming systems or equipment associated with interactive gaming;

(j) Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

(k) Employees of operators of inter-casino linked systems, mobile gaming systems or interactive gaming systems whose duties include the operational or supervisory control of the systems or the games that are part of the systems;

(l) *Employees of operators of call centers who perform, or who supervise the performance of, the function of receiving and transmitting wagering instructions;*

~~(m) Employees [whose responsibilities include performing the duties relating to the process of registration] who have access to the Board's system of records for the purpose of processing the registrations of gaming employees that a licensee is required to perform pursuant to the provisions of this chapter and any regulations adopted pursuant thereto;~~

~~(m)~~ (n) Floormen;

~~(n)~~ (o) Hosts or other persons empowered to extend credit or complimentary services;

~~(o)~~ (p) Keno runners;

~~(p)~~ (q) Keno writers;

~~(q)~~ (r) Machine mechanics;

~~(r)~~ (s) Odds makers and line setters;

~~(s)~~ (t) Security personnel;

~~(t)~~ (u) Shift or pit bosses;

~~(u)~~ (v) Shifts;

~~(v)~~ (w) Supervisors or managers;

~~(w)~~ (x) Ticket writers; ~~and~~

~~(x)~~ (y) Employees of a person required by NRS 463.160 to be licensed to operate an information service ~~[-]~~; *and*

(z) *Temporary or contract employees hired by a licensee to perform a function related to gaming.*

2. "Gaming employee" does not include *barbacks*, bartenders, cocktail waitresses or other persons engaged exclusively in preparing or serving food or beverages.

Sec. 5. NRS 463.0172 is hereby amended to read as follows:

463.0172 "Manufacturer" means a person who ~~[-]~~:

~~1. Manufactures, assembles, programs or makes modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system; or~~

~~2. Designs, assumes responsibility for the design of, controls the design or assembly of, or maintains a copyright over the design of, a mechanism, electronic circuit or computer program which cannot be reasonably~~

~~demonstrated to have any application other than in a gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in this State or for distribution outside of this State.] operates, carries on, conducts or maintains any form of manufacture.~~

Sec. 6. NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this ~~state, in space to be provided by the Buildings and Grounds Division.] State as the Chairman of the Board deems necessary for the efficient operation of the Board. The Chairman of the Board may enter into such leases or other agreements as may be necessary to establish a branch office.~~

Sec. 7. NRS 463.120 is hereby amended to read as follows:

463.120 1. The Board and the Commission shall cause to be made and kept a record of all proceedings at regular and special meetings of the Board and the Commission. These records are open to public inspection.

2. The Board shall maintain a file of all applications for licenses under this chapter and chapter 466 of NRS, together with a record of all action taken with respect to those applications. The file and record are open to public inspection.

3. The Board and the Commission may maintain such other files and records as they may deem desirable.

4. Except as otherwise provided in this ~~subsection and subsection 5.] section,~~ all information and data:

(a) Required by the Board or Commission to be furnished to it under ~~this chapter.] chapters 462 to 466, inclusive, of NRS or any regulations adopted pursuant thereto~~ or which may be otherwise obtained relative to the finances, earnings or revenue of any applicant or licensee;

(b) Pertaining to an applicant's ~~for~~ or natural person's criminal record, antecedents and background which have been furnished to or obtained by the Board or Commission from any source;

(c) Provided to the members, agents or employees of the Board or Commission by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential;

(d) Obtained by the Board from a manufacturer, distributor or operator, or from an operator of an inter-casino linked system, relating to the manufacturing of gaming devices or the operation of an inter-casino linked system; or

(e) Prepared ~~for~~ or obtained by ~~for provided to the Board or Commission or~~ an agent or employee of the Board or Commission ~~relating to an application for a license, a finding of suitability or any approval that is required] [in furtherance of his performance of his duties]~~ pursuant to ~~the provisions of this chapter.] [chapter 462, 464, 465 or 466 of NRS or any~~

~~regulations adopted pursuant thereto,] an audit, investigation, determination or hearing.~~

↪ are confidential ~~and absolutely privileged]~~ and may be revealed in whole or in part only in the course of the necessary administration of this chapter or upon the lawful order of a court of competent jurisdiction. The Board and Commission may ~~waive their privilege to such information and data and]~~ reveal such information and data to an authorized agent of any agency of the United States Government, any state or any political subdivision of a state or the government of any foreign country. Notwithstanding any other provision of state law, such information ~~and data]~~ may not be otherwise revealed without specific authorization ~~and waiver of the privilege]~~ by the Board or Commission.

5. Notwithstanding any other provision of state law, any and all information and data prepared or obtained by an agent or employee of the Board or Commission relating to an application for a license, a finding of suitability or any approval that is required pursuant to the provisions of chapters 462 to 466, inclusive, or any regulations adopted pursuant thereto, are confidential and absolutely privileged and may be revealed in whole or in part only in the course of the necessary administration of such provisions and with specific authorization and waiver of the privilege by the Board or Commission. The Board and Commission may reveal such information and data to an authorized agent of any agency of the United States Government, any state or any political subdivision of a state or the government of any foreign country.

6. Before the beginning of each legislative session, the Board shall submit to the Legislative Commission for its review and for the use of the Legislature a report on the gross revenue, net revenue and average depreciation of all licensees, categorized by class of licensee and geographical area and the assessed valuation of the property of all licensees, by category, as listed on the assessment rolls.

~~[6.]~~ 7. Notice of the content of any information or data furnished or released pursuant to subsection 4 may be given to any applicant or licensee in a manner prescribed by regulations adopted by the Commission.

~~[7.]~~ 8. The files, records and reports of the Board are open at all times to inspection by the Commission and its authorized agents.

~~[8.]~~ 9. All files, records, reports and other information pertaining to gaming matters in the possession of the Nevada Tax Commission must be made available to the Board and the Nevada Gaming Commission as is necessary to the administration of this chapter.

~~[9.]~~ 10. The Nevada Gaming Commission, by the affirmative vote of a majority of its members, may remove from its records the name of a debtor and the amount of tax, penalty and interest, or any of them, owed by him, if after 5 years it remains impossible or impracticable to collect such amounts. The Commission shall establish a master file containing the information removed from its official records by this section.

Sec. 8. NRS 463.125 is hereby amended to read as follows:

463.125 1. The Commission may ~~[, for the purpose of obtaining an exemption from the requirements of the Department of Treasury on reporting and keeping of records by casinos,]~~ require nonrestricted licensees with an annual gross revenue of \$1,000,000 or more to report and keep records of all transactions involving cash.

2. A gaming licensee, or a director, officer, employee, affiliate or agent of the gaming licensee, who makes a disclosure to the Commission, the Board or any other law enforcement agency of a possible violation or circumvention of law or regulation regarding a transaction involving cash has absolute immunity from civil liability for that disclosure or for the failure to notify a person involved in the transaction or any other person of that disclosure.

3. The absolute privilege set forth in NRS 463.3407 also applies to the copy of a report of a suspicious transaction filed with the Board as required by regulations adopted pursuant to subsection 1.

Sec. 9. NRS 463.162 is hereby amended to read as follows:

463.162 1. Except as otherwise provided in subsections 2 and 3, it is unlawful for any person to:

(a) Lend, let, lease or otherwise deliver or furnish any equipment of any gambling game, including any slot machine, for any interest, percentage or share of the money or property played, under guise of any agreement whatever, without having first procured a state gaming license.

(b) Lend, let, lease or otherwise deliver or furnish, except by a bona fide sale or capital lease, any slot machine under guise of any agreement whereby any consideration is paid or is payable for the right to possess or use that slot machine, whether the consideration is measured by a percentage of the revenue derived from the machine or by a fixed fee or otherwise, without having first procured a state gaming license for the slot machine.

(c) Furnish services or property, real or personal, on the basis of a contract, lease or license, pursuant to which that person receives payments based on earnings or profits from any gambling game, including any slot machine, without having first procured a state gaming license.

2. The provisions of subsection 1 do not apply to any person:

(a) Whose payments are a fixed sum determined in advance on a bona fide basis for the furnishing of services or property other than a slot machine.

(b) Who furnishes services or property under a bona fide rental agreement or security agreement for gaming equipment.

(c) That is a wholly owned subsidiary of:

(1) A corporation, limited partnership or limited-liability company holding a state gaming license; or

(2) A holding company or intermediary company, or publicly traded corporation, that has registered pursuant to NRS 463.585 or 463.635 and which has fully complied with the laws applicable to it.

(d) Who is licensed as a distributor and who rents or leases any equipment of any gambling game, including any slot machine, under a bona fide agreement where the payments are a fixed sum determined in advance and not determined as a percentage of the revenue derived from the equipment or slot machine.

(e) Who is found suitable by the Commission to act as an independent agent.

↪ Receipts or rentals or charges for real property, personal property or services do not lose their character as payments of a fixed sum or as bona fide because of provisions in a contract, lease or license for adjustments in charges, rentals or fees on account of changes in taxes or assessments, escalations in the cost-of-living index, expansions or improvement of facilities, or changes in services supplied. Receipts of rentals or charges based on percentage between a corporate licensee or a licensee who is a limited partnership or limited-liability company and the entities enumerated in paragraph (c) are permitted under this subsection.

3. The Commission may, upon the issuance of its approval or a finding of suitability, exempt a holding company from the licensing requirements of subsection 1.

4. The Board may require any person exempted by the provisions of subsection 2 or paragraph (b) of subsection 1 to provide such information as it may require to perform its investigative duties.

5. The Board and the Commission may require a finding of suitability or the licensing of any person who:

(a) Owns any interest in the premises of a licensed establishment or owns any interest in real property used by a licensed establishment whether he leases the property directly to the licensee or through an intermediary.

(b) Repairs, rebuilds or modifies any gaming device.

(c) Manufactures or distributes chips or gaming tokens for use in this State.

(d) *Operates a call center within this State as an agent of a licensed race book or sports pool in this State in accordance with the regulations adopted by the Commission.*

(e) *Has invented, has developed or owns the intellectual property rights to a game for which approval by the Commission is being sought or has been received in accordance with the regulations adopted by the Commission.*

6. If the Commission finds a person described in subsection 5 unsuitable, a licensee shall not enter into any contract or agreement with that person without the prior approval of the Commission. Any other agreement between the licensee and that person must be terminated upon receipt of notice of the action by the Commission. Any agreement between a licensee and a person described in subsection 5 shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the Commission that the person is unsuitable. Failure expressly to include that condition in the agreement is not a defense in any action brought pursuant to

this section to terminate the agreement. If the application is not presented to the Board within 30 days after demand, the Commission may pursue any remedy or combination of remedies provided in this chapter.

Sec. 10. NRS 463.170 is hereby amended to read as follows:

463.170 1. Any person who the Commission determines is qualified to receive a license, to be found suitable or to receive any approval required under the provisions of this chapter, or to be found suitable regarding the operation of a charitable lottery under the provisions of chapter 462 of NRS, having due consideration for the proper protection of the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and the declared policy of this State, may be issued a state gaming license, be found suitable or receive any approval required by this chapter, as appropriate. The burden of proving his qualification to receive any license, be found suitable or receive any approval required by this chapter is on the applicant.

2. An application to receive a license or be found suitable must not be granted unless the Commission is satisfied that the applicant is:

(a) A person of good character, honesty and integrity;

(b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and

(c) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the State.

3. A license to operate a gaming establishment or an inter-casino linked system must not be granted unless the applicant has satisfied the Commission that:

(a) The applicant has adequate business probity, competence and experience, in gaming or generally; and

(b) The proposed financing of the entire operation is:

(1) Adequate for the nature of the proposed operation; and

(2) From a suitable source.

↪ Any lender or other source of money or credit which the Commission finds does not meet the standards set forth in subsection 2 may be deemed unsuitable.

4. An application to receive a license or be found suitable constitutes a request for a determination of the applicant's general character, integrity, and ability to participate or engage in, or be associated with gaming or the operation of a charitable lottery, as appropriate. Any written or oral statement made in the course of an official proceeding of the Board or Commission by any member thereof or any witness testifying under oath which is relevant to the purpose of the proceeding is absolutely privileged and does not impose

liability for defamation or constitute a ground for recovery in any civil action.

5. The Commission may in its discretion grant a license to:

- (a) A publicly traded corporation which has complied with the provisions of NRS 463.625 to 463.643, inclusive;
- (b) Any other corporation which has complied with the provisions of NRS 463.490 to 463.530, inclusive;
- (c) A limited partnership which has complied with the provisions of NRS 463.564 to 463.571, inclusive; and
- (d) A limited-liability company which has complied with the provisions of NRS 463.5731 to 463.5737, inclusive.

6. No limited partnership, except one whose sole limited partner is a publicly traded corporation which has registered with the Commission, or a limited-liability company, or business trust or organization or other association of a quasi-corporate character is eligible to receive or hold any license under this chapter unless all persons having any direct or indirect interest therein of any nature whatever, whether financial, administrative, policymaking or supervisory, are individually qualified to be licensed under the provisions of this chapter.

7. The Commission may, by regulation:

- (a) Limit the number of persons who may be financially interested and the nature of their interest in any corporation, other than a publicly traded corporation, limited partnership, limited-liability company or other organization or association licensed under this chapter; and
- (b) Establish such other qualifications for licenses as it may, in its discretion, deem to be in the public interest and consistent with the declared policy of the State.

8. *Any person granted a license or found suitable by the Commission shall continue to meet the applicable standards and qualifications set forth in this section and any other qualifications established by the Commission by regulation. The failure to continue to meet such standards and qualifications constitutes grounds for disciplinary action.*

Sec. 11. NRS 463.335 is hereby amended to read as follows:

463.335 1. The Legislature finds that, to protect and promote the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and to carry out the policy declared in NRS 463.0129, it is necessary that the Board:

- (a) Ascertain and keep itself informed of the identity, prior activities and present location of all gaming employees in the State of Nevada; and
- (b) Maintain confidential records of such information.

2. A person may not be employed as a gaming employee unless he is temporarily registered or registered as a gaming employee pursuant to this section. An applicant for registration or renewal of registration as a gaming employee must file an application for registration or renewal of registration with the Board. Whenever a registered gaming employee, whose registration

has not expired, has not been objected to by the Board, or has not been suspended or revoked becomes employed as a gaming employee at another or additional gaming establishment, he must file a change of employment notice within 10 *calendar* days with the Board. The application for registration and change of employment notice must be filed through the licensee for whom the applicant will commence or continue working as a gaming employee, unless otherwise filed with the Board as prescribed by regulation of the Commission.

3. The Board shall prescribe the forms for the application for registration as a gaming employee and the change of employment notice.

4. A complete application for registration or renewal of registration as a gaming employee or a change of employment notice received by a licensee must be mailed or delivered to the Board within 5 business days after receipt unless the date is administratively extended by the Chairman of the Board for good cause. A licensee is not responsible for the accuracy or completeness of any application for registration or renewal of registration as a gaming employee or any change of employment notice.

5. The Board shall immediately conduct an investigation of each person who files an application for registration or renewal of registration as a gaming employee to determine whether he is eligible for registration as a gaming employee. In conducting the investigation, two complete sets of the applicant's fingerprints must be submitted to the Central Repository for Nevada Records of Criminal History for:

(a) A report concerning the criminal history of the applicant; and

(b) Submission to the Federal Bureau of Investigation for a report concerning the criminal history of the applicant.

↪The investigation need not be limited solely to consideration of the results of the report concerning the criminal history of the applicant. The fee for processing an application for registration or renewal of registration as a gaming employee may be charged only to cover the actual investigative and administrative costs related to processing the application and the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to process the fingerprints of an applicant pursuant to this subsection.

6. Upon receipt of a change of employment notice, the Board may conduct any investigations of the gaming employee that the Board deems appropriate to determine whether the gaming employee may remain registered as a gaming employee. *The fee charged by the Board to process a change of employment notice may cover only the actual investigative and administrative costs related to processing the change of employment notice.* The filing of a change of employment notice constitutes an application for registration as a gaming employee, and if the Board, after conducting its investigation, suspends or objects to the continued registration of the gaming employee, the provisions of subsections 10 to 16, inclusive, apply to such suspension by or objection of the Board. ~~No fee may be charged by the~~

~~Board to cover the actual investigative and administrative costs related to processing a change of employment notice.]~~

7. Except as otherwise prescribed by regulation of the Commission, an applicant for registration or renewal of registration as a gaming employee is deemed temporarily registered as a gaming employee as of the date a complete application for registration or renewal of registration is submitted to the licensee for which he will commence or continue working as a gaming employee. Unless objected to by the Board or suspended or revoked, the initial registration of an applicant as a gaming employee expires 5 years after the date employment commences with the applicable licensee. Any subsequent renewal of registration as a gaming employee, unless objected to by the Board or suspended or revoked, expires 5 years after the expiration date of the most recent registration or renewal of registration of the gaming employee.

8. If, within 120 days after receipt by the Board of a complete application for registration or renewal of registration as a gaming employee, including classifiable fingerprints, or a change of employment notice, the Board has not notified the applicable licensee of any suspension or objection, the applicant shall be deemed to be registered as a gaming employee. A complete application for registration or renewal of registration as a gaming employee is composed of:

(a) The fully completed form for application for registration as a gaming employee prescribed in subsection 3;

(b) Two complete sets of the fingerprints of the applicant, unless directly forwarded electronically or by another means to the Central Repository for Nevada Records of Criminal History;

(c) The fee for processing the application for registration or renewal of registration as a gaming employee prescribed by the Board pursuant to subsection 5, unless otherwise prescribed by regulation of the Commission; and

(d) A completed statement as prescribed in subsections 1 and 2 of NRS 463.3351.

↪ If the Board determines after receiving an application for registration or renewal of registration as a gaming employee that the application is incomplete, the Board may suspend the temporary registration as a gaming employee of the applicant who filed the incomplete application. An applicant whose temporary registration is suspended shall not be eligible to work as a gaming employee until such time as he files a complete application.

9. A person who is temporarily registered or registered as a gaming employee is eligible for employment in any licensed gaming establishment in this State until such registration is objected to by the Board, expires or is suspended or revoked. The Commission shall adopt regulations to:

(a) Establish uniform procedures for the registration of gaming employees;

(b) Establish uniform criteria for objection by the Board of an application for registration; and

(c) Provide for the creation and maintenance of a system of records that contain information regarding the current place of employment of each person who is registered as a gaming employee and each person whose registration as a gaming employee has expired, was objected to by the Board, or was suspended or revoked. The system of records must be accessible by:

(1) Licensees for the limited purpose of complying with subsection 2; and

(2) The Central Repository for Nevada Records of Criminal History for the limited purpose of complying with NRS 179D.570.

10. If the Board, within the 120-day period prescribed in subsection 8, notifies:

(a) The applicable licensee; and

(b) The applicant,

↳ that the Board suspends or objects to the temporary registration of an applicant as a gaming employee, the licensee shall immediately terminate the applicant from employment or reassign him to a position that does not require registration as a gaming employee. The notice of suspension or objection by the Board which is sent to the applicant must include a statement of the facts upon which the Board relied in making its suspension or objection.

11. Any person whose application for registration or renewal of registration as a gaming employee has been suspended or objected to by the Board may, not later than 60 days after receiving notice of the suspension or objection, apply to the Board for a hearing. A failure of a person whose application has been objected to or suspended to apply for a hearing within 60 days or his failure to appear at a hearing of the Board conducted pursuant to this section shall be deemed to be an admission that the suspension or objection is well-founded, and the failure precludes administrative or judicial review. At the hearing, the Board shall take any testimony deemed necessary. After the hearing, the Board shall review the testimony taken and any other evidence ~~to~~ and shall, within 45 days after the date of the hearing, mail to the applicant its decision sustaining or reversing the suspension or the objection to the registration of the applicant as a gaming employee.

12. The Board may suspend or object to the registration of an applicant as a gaming employee for any cause deemed reasonable by the Board. The Board may object to or suspend the registration if the applicant has:

(a) Failed to disclose or misstated information or otherwise attempted to mislead the Board with respect to any material fact contained in the application for registration as a gaming employee;

(b) Knowingly failed to comply with the provisions of this chapter or chapter 463B, 464 or 465 of NRS or the regulations of the Commission at a place of previous employment;

(c) Committed, attempted or conspired to commit any crime of moral turpitude, embezzlement or larceny or any violation of any law pertaining to gaming, or any crime which is inimical to the declared policy of this State concerning gaming;

(d) Committed, attempted or conspired to commit a crime which is a felony or gross misdemeanor in this State or an offense in another state or jurisdiction which would be a felony or gross misdemeanor if committed in this State and which relates to the applicant's suitability or qualifications to work as a gaming employee;

(e) Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or as being of notorious and unsavory reputation;

(f) Been placed and remains in the constructive custody of any federal, state or municipal law enforcement authority; or

(g) Had registration as a gaming employee revoked or committed any act which is a ground for the revocation of registration as a gaming employee or would have been a ground for revoking registration as a gaming employee if the applicant had then been registered as a gaming employee.

➔ If the Board registers or does not suspend or object to the registration of an applicant as a gaming employee, it may specially limit the period for which the registration is valid, limit the job classifications for which the registered gaming employee may be employed and establish such individual conditions for the renewal and effectiveness of the registration as the Board deems appropriate, including required submission to unscheduled tests for the presence of alcohol or controlled substances. If a gaming employee fails to comply with any limitation or condition placed on the effectiveness of his registration as a gaming employee, notwithstanding any other provision of this section, the Board may object to his registration. If the Board objects to his registration, the provisions regarding the continued effectiveness of the registration and the review of the objection set forth in subsections 10 to 16, inclusive, apply, including, without limitation, the requirement to notify the applicable licensee about the objection.

13. Any applicant aggrieved by the decision of the Board may, within 15 days after the announcement of the decision, apply in writing to the Commission for review of the decision. Review is limited to the record of the proceedings before the Board. The Commission may sustain, modify or reverse the Board's decision. The decision of the Commission is subject to judicial review pursuant to NRS 463.315 to 463.318, inclusive.

14. The Chairman of the Board may designate a member of the Board or the Board may appoint a hearing examiner and authorize that person to perform on behalf of the Board any of the following functions required of the Board by this section concerning the registration or renewal of registration of gaming employees:

(a) Conducting a hearing and taking testimony;

(b) Reviewing the testimony and evidence presented at the hearing;

(c) Making a recommendation to the Board based upon the testimony and evidence or rendering a decision on behalf of the Board to sustain or reverse the suspension of or the objection to the registration of an applicant as a gaming employee; and

(d) Notifying the applicant of the decision.

15. Notice by the Board as provided pursuant to subsections 1 to 14, inclusive, is sufficient if it is mailed to the applicant's last known address as indicated on the application for registration as a gaming employee or the record of the hearing, as the case may be. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

16. Except as otherwise provided in this subsection, all records acquired or compiled by the Board or Commission relating to any application made pursuant to this section, all lists of persons registered as gaming employees, all lists of persons suspended or objected to by the Board and all records of the names or identity of persons engaged in the gaming industry in this State are confidential and must not be disclosed except in the proper administration of this chapter or to an authorized law enforcement agency. Upon receipt of a request from the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.400 for information relating to a specific person who has applied for registration as a gaming employee or is registered as a gaming employee, the Board shall disclose to the Division his social security number, residential address and current employer as that information is listed in the files and records of the Board. Any record of the Board or Commission which shows that the applicant has been convicted of a crime in another state must show whether the crime was a misdemeanor, gross misdemeanor, felony or other class of crime as classified by the state in which the crime was committed. In a disclosure of the conviction, reference to the classification of the crime must be based on the classification in the state where it was committed.

17. If the Central Repository for Nevada Records of Criminal History, in accordance with the provisions of NRS 179D.570, provides the Board with the name and other identifying information of a registered gaming employee who is not in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person that, unless he provides the Board with verifiable documentation confirming that he is currently in compliance with the provisions of chapter 179D of NRS within 15 days after receipt of such notice, the Board shall, notwithstanding any other provisions of this section, conduct a hearing for the purpose of determining whether the registration of the person as a gaming employee must be suspended for noncompliance with the provisions of chapter 179D of NRS.

18. Notwithstanding any other provisions of this section, if a person notified by the Board pursuant to subsection 17 does not provide the Board,

within the 15 days prescribed therein, with verifiable documentation establishing that he is currently in compliance with the provisions of chapter 179D of NRS, the Chairman of the Board shall, within 10 days thereof, appoint a hearing examiner to conduct a hearing to determine whether the person is, in fact, not in compliance with the provisions of chapter 179D of NRS. The hearing examiner shall, within 5 days after the date he is appointed by the Chairman, notify the person of the date of the hearing. The hearing must be held within 20 days after the date on which the hearing examiner is appointed by the Chairman, unless administratively extended by the Chairman for good cause. At the hearing, the hearing examiner may take any testimony deemed necessary and shall render a decision sustaining or reversing the findings of the Central Repository for Nevada Records of Criminal History. The hearing examiner shall notify the person of his decision within 5 days after the date on which the decision is rendered. A failure of a person to appear at a hearing conducted pursuant to this section shall be deemed to be an admission that the findings of the hearing examiner are well-founded.

19. If, after conducting the hearing prescribed in subsection 18, the hearing examiner renders a decision that the person who is the subject of the hearing:

(a) Is not in compliance with the provisions of chapter 179D of NRS, the Board shall, notwithstanding any other provisions of this section:

(1) Suspend the registration of the person as a gaming employee;

(2) Notify the person to contact the Central Repository for Nevada Records of Criminal History to determine the actions that he must take to be in compliance with the provisions of chapter 179D of NRS; and

(3) Notify the licensee for which the person is employed as a gaming employee, in the manner prescribed in subsection 20, that the Board has suspended the registration of the person as a gaming employee and that the licensee must immediately terminate the person from employment or reassign him to a position that does not require registration as a gaming employee.

(b) Is in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person and the Central Repository for Nevada Records of Criminal History, in the manner prescribed in subsection 20, of the findings of the hearing examiner.

20. Notice as provided pursuant to subsections 17, 18 and 19 is sufficient if it is mailed to the person's last known address as indicated on the most recent application for registration as a gaming employee or the record of the hearing, or to the person at his place of gaming employment. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

21. The Board shall remove a suspension entered in accordance with subsection 19 and reinstate the registration of a person as a gaming employee upon receipt of verifiable documentation confirming that the person is currently in compliance with the provisions of chapter 179D of NRS.

Sec. 12. NRS 463.362 is hereby amended to read as follows:

463.362 1. Whenever a patron and a licensee, or any person acting on behalf of or in conjunction with a licensee, have any dispute which cannot be resolved to the satisfaction of the patron and which involves:

(a) Alleged winnings, alleged losses or the award or distribution of cash, prizes, benefits, tickets or any other item or items in a game, tournament, contest, drawing, promotion or similar activity or event; or

(b) The manner in which a game, tournament, contest, drawing, promotion or similar activity or event is conducted,

↳ the licensee is responsible for notifying the Board or patron in accordance with the provisions of subsection 2, regardless of whether the licensee is directly or indirectly involved in the dispute.

2. Whenever a dispute described in subsection 1 involves:

(a) At least \$500, the licensee shall immediately notify the Board; or

(b) Less than \$500, the licensee shall notify the patron of his right to request that the Board conduct an investigation.

3. Upon being notified of a dispute, the Board, through an agent, shall conduct whatever investigation it deems necessary and shall determine whether payment should be made. The agent of the Board shall mail written notice to the Board, the licensee and the patron of his decision resolving the dispute within ~~{30}~~ 45 days after the date the Board first receives notification from the licensee or a request to conduct an investigation from the patron. The failure of the agent to mail notice of his decision within the time required by this subsection does not divest the Board of its exclusive jurisdiction over the dispute.

4. Failure of the licensee to notify the Board or patron as provided in subsection 2 is grounds for disciplinary action pursuant to NRS 463.310 to 463.3145, inclusive.

5. The decision of the agent of the Board is effective on the date the aggrieved party receives notice of the decision. Notice of the decision shall be deemed sufficient if it is mailed to the last known address of the licensee and patron. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the licensee or the patron 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

Sec. 13. NRS 463.422 is hereby amended to read as follows:

463.422 1. A disseminator who wishes to submit a proposal for the exclusive right to disseminate a live broadcast for a racing meet to users must give written notice to the Board ~~not earlier than 180 days nor later than~~

100 days before the racing meet begins. The Board may provide for a shorter period of notice.

~~2. Within 20 days after it] in accordance with the requirements established in the regulations adopted by the Commission.~~

2. After the Board receives such a notice, the Board shall ~~[give written notice to]~~ notify the disseminator indicating when a written proposal must be submitted. If the Board reviews the submitted proposals and determines that a hearing is necessary, the Board shall ~~[give written notice to]~~ notify each disseminator and user indicating that the Board intends to conduct a hearing to determine which disseminator will receive the exclusive right to disseminate a live broadcast for a racing meet to users.

3. If the Board reviews the submitted proposals and determines that the selection of a disseminator may be made without a hearing, it shall ~~[give written notice of its determination and selection to]~~ notify each disseminator and ~~[shall post such a notice in a conspicuous place in each of its offices in Las Vegas and Carson City for inspection by members of]~~ the public ~~[.] of its determination.~~

4. All ~~[notices given]~~ notifications provided by the Board pursuant to this section must ~~[contain]~~ :

(a) Contain all information ; and

(b) Conform with all requirements relating to the manner, timing and form for such notifications,

↳ that the Commission, with the advice and assistance of the Board, may prescribe by regulation.

Sec. 14. NRS 463.423 is hereby amended to read as follows:

463.423 1. Whenever the Board decides to conduct a hearing to determine which disseminator will receive the exclusive right to disseminate a live broadcast for a racing meet to users, the Board shall appoint a hearing panel, consisting of three members, to conduct the hearing. The Commission, with the advice and assistance of the Board, shall prescribe by regulation the qualifications of those members.

2. The members of the panel are entitled to receive the necessary expenses incurred in carrying out their duties as prescribed by the Board. ~~[The expenses must be paid from the account for the operation of hearing panels.]~~

3. The Board may enter into agreements necessary to provide for the services of the members of the hearing panels appointed pursuant to this section.

4. The Board shall provide from its staff such additional personnel as it deems necessary to carry out the provisions of this section.

Sec. 15. NRS 463.426 is hereby amended to read as follows:

463.426 The Board may:

1. Authorize a disseminator to enter into an agreement with a track to disseminate to users a live broadcast which is received from the track.

2. Establish fees to be paid by a ~~user~~ disseminator of a live broadcast in an amount which is equal to the cost of carrying out the provisions of NRS 463.421 to 463.427, inclusive.

~~[3.— The Board shall deposit the fees with the State Treasurer for credit to the Account for the Operation of Hearing Panels. Any interest earned on money in the Account must be credited to that Account.]~~

Sec. 16. NRS 463.445 is hereby amended to read as follows:

463.445 1. Except as otherwise provided in subsection 3, the Commission ~~shall~~ may fix, regulate and control the rates to be charged by any disseminator of information concerning racing held at a track which uses the pari-mutuel system of wagering, but the rates must be just and reasonable.

2. The Commission may require any licensee who subscribes to a disseminator's service to report financial information relating to wagering and amounts won on each track or event, and may publish this information to ensure that the rates are just and reasonable.

3. The provisions of subsection 1 do not apply to the rates to be charged for the dissemination of live broadcasts.

Sec. 17. NRS 463.563 is hereby amended to read as follows:

463.563 1. The policy of the State of Nevada with respect to the issuance of state gaming licenses to limited partnerships is:

(a) To broaden the opportunity for investment in gaming through the pooling of capital in limited partnership form.

(b) To maintain effective control over the conduct of gaming by limited partnership licensees.

(c) To restrain any speculative promotion of limited partnership interests in gaming enterprises.

2. *To the extent practicable, the provisions of this chapter that apply to a limited partnership shall be deemed to apply to a registered limited-liability partnership as defined in NRS 87.020 or 87.4311 or a foreign registered limited-liability partnership.*

3. The Commission may waive, either selectively or by general regulation, one or more of the requirements of NRS 463.564 to 463.572, inclusive, if it makes a written finding that a waiver is consistent with the state policy set forth in NRS 463.0129 and this section.

Sec. 18. ~~[NRS 463.643 is hereby amended to read as follows:~~

~~463.643 1. Each person who acquires, directly or indirectly,~~

~~(a) Beneficial ownership of any voting security; or~~

~~(b) Beneficial or record ownership of any nonvoting security,~~

~~→ in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of that ownership would otherwise be inconsistent with the declared policy of this State.~~

~~2. Each person who acquires, directly or indirectly, beneficial or record ownership of any debt security in a publicly traded corporation which is~~

registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of the debt security would otherwise be inconsistent with the declared policy of this State.

~~3.— Each person who, individually or in association with others, acquires, directly or indirectly, beneficial ownership of more than 5 percent of any class of voting securities of a publicly traded corporation registered with the Nevada Gaming Commission, and who is required to report, or voluntarily reports, the acquisition to the Securities and Exchange Commission pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall file a copy of that report, and any amendments thereto, with the Nevada Gaming Commission within 10 days after filing that report with the Securities and Exchange Commission.~~

~~4.— Each person who, individually or in association with others, acquires, directly or indirectly, the beneficial ownership of more than 10 percent of any class of voting securities of a publicly traded corporation registered with the Commission, or who is required to report, or voluntarily reports, such acquisition pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall apply to the Commission for a finding of suitability within 30 days after the Chairman of the Board mails the written notice.~~

~~5.— A person who acquires, directly or indirectly:~~

~~(a) Beneficial ownership of any voting security; or~~

~~(b) Beneficial or record ownership of any nonvoting security or debt security;~~

~~→ in a publicly traded corporation created under the laws of a foreign country which is registered with the Commission shall file such reports and is subject to such a finding of suitability as the Commission may prescribe.~~

~~6.— Any person required by the Commission or by this section to be found suitable shall:~~

~~(a) Except as otherwise required in subsection 4, apply for a finding of suitability within 30 days after the Commission requests that he do so; and~~

~~(b) Together with the application, deposit with the Board a sum of money which, in the opinion of the Board, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application, and deposit such additional sums as are required by the Board to pay final costs and charges.~~

~~→ Any person who violates the provisions of this subsection is guilty of a gross misdemeanor.~~

~~7.— Any person required by the Commission or this section to be found suitable who is found unsuitable by the Commission shall not hold directly or indirectly the:~~

~~(a) Beneficial ownership of any voting security; or~~

~~(b) Beneficial or record ownership of any nonvoting security or debt security,~~

~~of a publicly traded corporation which is registered with the Commission beyond the time prescribed by the Commission.~~

~~8. [The violation of subsection 6 or 7 is a gross misdemeanor.] If any person is found unsuitable by the Commission to hold directly or indirectly the beneficial ownership of any voting security or beneficial or record ownership of any nonvoting security or debt security of a publicly traded corporation which is registered with the Commission:~~

~~(a) The person who is found unsuitable shall immediately offer the security to the publicly traded corporation for purchase. A person who is found unsuitable who does not immediately offer the security to the publicly traded corporation for purchase is guilty of a gross misdemeanor.~~

~~(b) The publicly traded corporation shall, within the time prescribed by the Commission pursuant to subsection 7, purchase the security for cash at fair market value. A publicly traded corporation that does not, within the time prescribed by the Commission pursuant to subsection 7, purchase the security for cash at fair market value is subject to disciplinary action.~~

~~9. As used in this section, "debt security" means any instrument generally recognized as a corporate security representing money owed and reflected as debt on the financial statement of a publicly traded corporation, including, but not limited to, bonds, notes and debentures. (Deleted by amendment.)~~

*Sec. 18.5. NRS 463.650 is hereby amended to read as follows:*

463.650 1. Except as otherwise provided in subsections 2 to 5, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada or for distribution outside of Nevada without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section or NRS 463.660.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines, mobile gaming systems and cashless wagering systems, without a distributor's license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor's license.

4. The Commission may, by regulation, authorize a person who owns:

- (a) Gaming devices for home use in accordance with NRS 463.160; or
- (b) Antique gaming devices,

↳ to sell such devices without procuring a license therefor to residents of jurisdictions wherein ownership of such devices is legal.

5. Upon approval by the Board, a gaming device owned by:

- (a) A law enforcement agency;
- (b) A court of law; or
- (c) A gaming device repair school licensed by the Commission on Postsecondary Education,

↳ may be disposed of by sale, in a manner approved by the Board, without a distributor's license. An application for approval must be submitted to the Board in the manner prescribed by the Chairman.

6. Any person who the Commission determines is a suitable person to receive a license under the provisions of this section and NRS 463.660 may be issued a manufacturer's or distributor's license. The burden of proving his qualification to receive or hold a license under this section and NRS 463.660 is at all times on the applicant or licensee.

7. Every person who must be licensed pursuant to this section is subject to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those provisions by the Commission.

8. The Commission may exempt, for any purpose, a manufacturer, seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the Commission determines that the exemption is consistent with the purposes of this chapter.

9. The Commission may provide by regulation for:

(a) The filing by a manufacturer of reports and information regarding:

(1) Any independent contractor; and

(2) The business arrangements between the manufacturer and an independent contractor.

(b) Registration of independent contractors.

(c) Procedures pursuant to which an independent contractor may be required to file an application for a finding of suitability.

(d) Such other regulatory oversight of independent contractors as the Commission determines is necessary and appropriate.

10. As used in this section:

(a) "Antique gaming device" means a gaming device that was manufactured before 1961.

(b) "Holding company" has the meaning ascribed to it in NRS 463.485.

(c) "Independent contractor" means, with respect to a manufacturer, any person who:

(1) Is not an employee of the manufacturer; and

(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture

of a gaming device. As used in this subparagraph, "control program" has the meaning ascribed to it in NRS 463.0155.

Sec. 19. Chapter 148 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *No interest subject to the jurisdiction of the Nevada Gaming Control Act may be transferred to any heir or devisee from probate until the heir or devisee has received all approvals necessary to hold or own such an interest from the Nevada Gaming Commission.*

2. *Such an heir or devisee must seek all such necessary approvals through the filing of all appropriate applications with the State Gaming Control Board within 1 year after the interest becomes subject to probate.*

3. *If any such heir or devisee fails to file full and complete applications for all such necessary approvals within 1 year after the interest becomes subject to probate, or if the Commission denies any application for such necessary approvals:*

*(a) The court shall immediately order that an appraisal of the interest must be conducted by two independent appraisers, one of whom must have experience appraising gaming assets. The costs of both appraisals must be paid by the estate.*

*(b) Within 30 days after receipt of both appraisals, the court shall offer and the entity in which the interest exists shall purchase the interest for cash at fair market value as determined by the court based upon the appraisals conducted pursuant to paragraph (a). The Commission may deem a failure to purchase the interest as offered to be a voluntary surrender of any gaming license, registration or approval held by the entity in which the interest exists.*

Sec. 19.5. NRS 239.0115 is hereby amended to read as follows:

239.0115 1. Except as otherwise provided in this subsection and subsection 3, notwithstanding any provision of law that has declared a public book or record, or a part thereof, to be confidential, if a public book or record has been in the legal custody or control of one or more governmental entities for at least 30 years, a person may apply to the district court of the county in which the governmental entity that currently has legal custody or control of the public book or record is located for an order directing that governmental entity to allow the person to inspect or copy the public book or record, or a part thereof. If the public book or record pertains to a natural person, a person may not apply for an order pursuant to this subsection until the public book or record has been in the legal custody or control of one or more governmental entities for at least 30 years or until the death of the person to whom the public book or record pertains, whichever is later.

2. There is a rebuttable presumption that a person who applies for an order as described in subsection 1 is entitled to inspect or copy the public book or record, or a part thereof, that he seeks to inspect or copy.

3. The provisions of subsection 1 do not apply to any book or record:

(a) Declared confidential pursuant to ~~subsection 4 of~~ NRS 463.120.

(b) Containing personal information pertaining to a victim of crime that has been declared by law to be confidential.

Sec. 20. Any balance existing in the Account for the Operation of Hearing Panels on June 30, 2009, must be transferred to the Account for Racing and Pari-Mutuel Wagering created pursuant to NRS 466.080 on July 1, 2009.

Sec. 21. 1. This section and sections 4, 6 to 12, inclusive, and 14 to 20, inclusive, of this act ~~becomes~~ become effective on July 1, 2009.

2. Sections 3 and 13 of this act become effective:

(a) Upon passage and approval, for the purpose of adopting regulations; and

(b) On October 1, 2009, for all other purposes.

3. Sections 1, 2 and 5 of this act become effective on October 1, 2009.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Thank you, Mr. President. This is the bill we receive every session from the Gaming Control Board. It is a clean-up bill.

It clarifies the application of some definitions and eliminates confusion in section 1 of the bill concerning the manufacturer and an independent contractor. It authorizes the Gaming Commission to adopt regulations concerning independent contractors. It revises provisions concerning the confidentiality of information and documents provided to or prepared by the State Gaming Control Board and the Nevada Gaming Commission and clarifies those documents that are absolutely privileged. It expands application for the finding of suitable and licensed to include game developers. It deletes section 18 of the bill to remove new language concerning a person found to be unsuitable to hold a beneficial ownership, thereby, returning NRS to its existing provisions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 92.

Bill read second time.

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

Amendment No. 10.

"SUMMARY—Makes various changes relating to the regulation of notaries public. (BDR 19-414)"

"AN ACT relating to notaries public; providing for electronic notarization; authorizing the Secretary of State to appoint electronic notaries public; revising provisions for the appointment of resident and nonresident notaries public; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Secretary of State is authorized to appoint notaries public in this State. (NRS 240.010) Sections 3-26 of this bill enact the Electronic Notary Public Authorization Act, which authorizes the

Secretary of State to appoint electronic notaries public who will be authorized to notarize electronic documents.

Sections 2 and 5-10 of this bill set forth various definitions relating to electronic notarization. Section 12 of this bill requires that a person seeking appointment as an electronic notary public already be a notary public in Nevada and successfully complete a course of study on electronic notarization, enter into a bond, pay an application fee and take an oath as a public officer. Section 14 of this bill provides that the initial term of appointment for an electronic notary public is 2 years and any subsequent term of appointment is 4 years. Section 16 of this bill states that an electronic notary public may perform the same notarial acts as a notary public except for certifying copies and noting protests of a negotiable instrument, and section 17 of this bill sets forth the fees he may charge. Section 18 of this bill prohibits the electronic notarization of a will, codicil, testamentary trust or any document related to transactions governed by certain sections of the Uniform Commercial Code, as prohibited by the Uniform Electronic Transactions Act, codified as chapter 719 of NRS. (NRS 719.200) Section 19 of this bill sets forth the specific requirements that distinguish the notarization of an electronic document from a nonelectronic notarization, including the use of an electronic signature and an electronic seal. Sections 21 and 22 of this bill provide that an electronic notary public must safeguard his electronic signature and any software or device used in producing that signature. Section 23 of this bill makes it a ~~(felony)~~ *gross misdemeanor* to: (1) wrongfully make or distribute software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed; or (2) wrongfully obtain, conceal, damage or destroy the software or hardware used by an electronic notary public. Section 25 of this bill authorizes the Secretary of State to promulgate regulations to carry out the provisions of the Electronic Notary Public Authorization Act. Section 26 of this bill provides that all the laws which apply to regular notaries public apply to electronic notaries public unless a provision of the Electronic Notary Public Authorization Act conflicts, in which case the latter controls.

Existing law prohibits a person who has been convicted of a crime of moral turpitude or a person who does not possess his civil rights from being appointed as a notary public. (NRS 240.010, 240.015) Section 29 of this bill authorizes the Secretary of State to appoint as a notary public a person who was convicted of a crime of moral turpitude if: (1) more than 10 years have passed since the end of his sentence, parole or probation; (2) he has made restitution, if applicable; and (3) he has had his civil rights restored.

Existing law allows a resident of an adjoining state to be appointed as a notary public in Nevada if he maintains or works for a business in Nevada. (NRS 240.015) Sections 30-32 of this bill amend the requirements for a nonresident notary public to further require a copy of a state business license and any other business license required by a local government where the business is located as proof of employment or self-employment in Nevada

when applying for an appointment or the renewal of an appointment as a nonresident notary public.

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

Section 1. Chapter 240 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this act.

Sec. 2. *"Notarial record" means:*

1. *The journal that a notary public is required to keep pursuant to NRS 240.120;*

2. *The journal that an electronic notary public is required to keep pursuant to section 20 of this act; and*

3. *A document or other evidence retained by a notary public or an electronic notary public to record the performance of a notarial act or an electronic notarial act.*

Sec. 3. *Sections 3 to 26, inclusive, of this act may be cited as the Electronic Notary Public Authorization Act.*

Sec. 4. *As used in sections 3 to 26, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.*

Sec. 6. *"Electronic document" means a document that is created, generated, sent, communicated, received or stored by electronic means.*

Sec. 7. *"Electronic notarial act" means an act that an electronic notary public of this State is authorized to perform. The term includes:*

1. *Taking an acknowledgment;*

2. *Administering an oath or affirmation;*

3. *Executing a jurat; and*

4. *Performing such other duties as may be prescribed by a specific statute.*

Sec. 8. *"Electronic notary public" means a person appointed by the Secretary of State pursuant to sections 3 to 26, inclusive, of this act to perform electronic notarial acts.*

Sec. 9. *"Electronic seal" means information within a notarized electronic document that includes the name, jurisdiction and expiration date of the appointment of an electronic notary public and generally includes the information required to be set forth in a mechanical stamp pursuant to NRS 240.040.*

Sec. 10. *"Electronic signature" means an electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document.*

Sec. 11. 1. *The Secretary of State may appoint electronic notaries public in this State.*

2. *The Secretary of State shall not appoint as an electronic notary public a person who submits an application containing a substantial and material misstatement or omission of fact.*

3. *An electronic notary public may cancel his appointment by submitting a written notice to the Secretary of State.*

4. *It is unlawful for a person to:*

(a) *Represent himself as an electronic notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to section 12 of this act.*

(b) *Submit an application for appointment as an electronic notary public that contains a substantial and material misstatement or omission of fact.*

5. *The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.*

Sec. 12. 1. *Each person applying for appointment as an electronic notary public must:*

(a) *At the time of application, be a notarial officer in this State and have been a notarial officer in this State for not less than 4 years;*

(b) *Submit to the Secretary of State an electronic application pursuant to subsection 2;*

(c) *Pay to the Secretary of State an application fee of \$50;*

(d) *Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer;*

(e) *Submit to the Secretary of State proof satisfactory to the Secretary of State that he has successfully completed a course of study provided pursuant to section 15 of this act; and*

(f) *Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant must submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.*

2. *The application for an appointment as an electronic notary public must be submitted as an electronic document and must contain, without limitation, the following information:*

(a) *The applicant's full legal name, and the name to be used for appointment, if different.*

(b) *The county in which the applicant resides.*

(c) *The electronic mail address of the applicant.*

(d) *A description of the technology or device, approved by the Secretary of State, that the applicant intends to use to create his electronic signature in performing electronic notarial acts.*

(e) *The electronic signature of the applicant.*

(f) *Any other information requested by the Secretary of State.*

3. An applicant for appointment as an electronic notary public who resides in an adjoining state, in addition to the requirements set forth in subsections 1 and 2, must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada;

(b) A copy of his state business license issued pursuant to NRS 360.780 and any business license required by the local government where his business is located, if he is self-employed; and

(c) Unless the applicant is self-employed, a copy of the state business license of his employer issued pursuant to NRS 360.780, a copy of any business license of his employer that is required by the local government where the business is located and an affidavit from his employer setting forth the facts which show that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

4. In completing an application, bond, oath or other document necessary to apply for appointment as an electronic notary public, an applicant must not be required to disclose his residential address or telephone number on any such document which will become available to the public.

5. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as an electronic notary public to the applicant.

6. The term of an electronic notary public commences on the effective date of the bond required pursuant to paragraph (f) of subsection 1. An electronic notary public shall not perform an electronic notarial act after the effective date of the bond unless he has been issued a certificate of appointment pursuant to subsection 5.

7. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of \$10 for each duplicate or amended certificate of appointment which is issued to an electronic notary public. If the electronic notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the electronic notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 13. 1. The bond required to be filed pursuant to section 12 of this act must be executed by the person applying to become an electronic notary

public as principal and by a surety company qualified and authorized to do business in this State. The bond must be made payable to the State of Nevada and be conditioned to provide indemnification to a person determined to have suffered damage as a result of an act by the electronic notary public which violates a provision of NRS 240.001 to 240.169, inclusive, or sections 3 to 26, inclusive, of this act. The surety company shall pay a final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice of final judgment. The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.

2. If the penal sum of the bond is exhausted, the surety company shall notify the Secretary of State in writing within 30 days after its exhaustion.

3. The surety bond must cover the period of the appointment of the electronic notary public, except when a surety is released.

4. A surety on a bond filed pursuant to section 12 of this act may be released after the surety gives 30 days' written notice to the Secretary of State and the electronic notary public, but the release does not discharge or otherwise affect a claim filed by a person for damage resulting from an act of the electronic notary public which is alleged to have occurred while the bond was in effect.

5. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer covered by a surety bond as required by this section and section 12 of this act or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 4 that the bond will be released or pursuant to subsection 2 that the penal sum of the bond is exhausted, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment will be suspended by operation of law until another surety bond is filed in the same manner and amount as the bond being terminated.

6. The Secretary of State may reinstate the appointment of an electronic notary public whose appointment has been suspended pursuant to subsection 5 if the electronic notary public, before his current term of appointment expires:

(a) Submits to the Secretary of State:

(1) An application for an amended certificate of appointment as an electronic notary public; and

(2) A certificate issued by the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, the county in this State in which the applicant maintains a place of business or is employed, which indicates that the applicant filed a new surety bond with the clerk; and

(b) Pays to the Secretary of State a fee of \$10.

Sec. 14. 1. The initial term of appointment as an electronic notary public is 2 years. Each term of appointment as an electronic notary public subsequent to the initial term is 4 years.

2. *The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer appointed as a notary public in this State. If the appointment of an electronic notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment as an electronic notary public will be suspended by operation of law until he is appointed as a notary public in this State.*

3. *If, at any time during his appointment, an electronic notary public changes his electronic mail address, county of residence, name, electronic signature or the technology or device used to create his electronic signature, the electronic notary public shall, within 10 days after making the change, submit to the Secretary of State:*

*(a) An electronic document, signed with the electronic signature submitted by the electronic notary public pursuant to subsection 2 of section 12 of this act, that includes the change of information; and*

*(b) A fee of \$10.*

Sec. 15. 1. *Except as otherwise provided in subsection 2, an applicant for appointment as an electronic notary public must successfully:*

*(a) Complete a course of study that is in accordance with the requirements of subsection 5; and*

*(b) Pass an examination at the completion of the course.*

2. *The following persons must successfully complete a course of study as required pursuant to subsection 1:*

*(a) A person applying for his first appointment as an electronic notary public;*

*(b) A person renewing his appointment as an electronic notary public if his appointment as an electronic notary public has been expired for a period of more than 1 year; and*

*(c) A person renewing his appointment as an electronic notary public if, during the 4 years immediately preceding his application for renewal, the Secretary of State took action against the person pursuant to NRS 240.150 for failing to comply with any provision of this chapter or any regulations adopted pursuant thereto.*

*↪ A person renewing his appointment as an electronic notary public need not successfully complete a course of study as required pursuant to subsection 1 if his appointment as an electronic notary public has been expired for a period of 1 year or less.*

3. *A course of study required to be completed pursuant to subsection 1 must:*

*(a) Include at least 3 hours of instruction;*

*(b) Provide instruction in electronic notarization, including, without limitation, notarial law and ethics, technology and procedures;*

*(c) Include an examination of the course content;*

*(d) Comply with the regulations adopted pursuant to section 25 of this act; and*

(e) *Be approved by the Secretary of State.*

4. *The Secretary of State may, with respect to a course of study required to be completed pursuant to subsection 1:*

(a) *Provide such a course of study; and*

(b) *Charge a reasonable fee to each person who enrolls in such a course of study.*

5. *A course of study provided pursuant to this section must satisfy the criteria set forth in subsection 3 and comply with the requirements set forth in the regulations adopted pursuant to section 25 of this act.*

6. *The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 4 in the Notary Public Training Fund created pursuant to NRS 240.018.*

Sec. 16. *A person appointed as an electronic notary public pursuant to sections 3 to 26, inclusive, of this act may, during normal business hours, perform the following electronic notarial acts for a person who requests the electronic notarial act and tenders the appropriate fee:*

1. *Taking an acknowledgment;*

2. *Executing a jurat; and*

3. *Administering an oath or affirmation.*

Sec. 17. 1. *An electronic notary public may charge the following fees and no more:*

(a) *For taking an acknowledgment, for each signature..... \$10*

(b) *For executing a jurat, for each signature..... \$10*

(c) *For administering an oath or affirmation without a signature ..... \$10*

2. *An electronic notary public shall not charge a fee to perform a service unless he is authorized to charge a fee for such a service pursuant to this section.*

3. *All fees prescribed in this section are payable in advance, if demanded.*

4. *An electronic notary public may charge an additional fee for traveling to perform an electronic notarial act if:*

(a) *The person requesting the electronic notarial act asks the electronic notary public to travel;*

(b) *The electronic notary public explains to the person requesting the electronic notarial act that the fee for travel is in addition to the fee authorized in subsection 1 and is not required by law;*

(c) *The person requesting the electronic notarial act agrees in advance upon the hourly rate that the electronic notary public will charge for the additional fee for travel; and*

(d) *The additional fee for travel does not exceed:*

(1) *If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 6 a.m. and 7 p.m., \$10 per hour.*

(2) *If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 7 p.m. and 6 a.m., \$25 per hour.*

↳ *The electronic notary public may charge a minimum of 2 hours for such travel and shall charge on a pro rata basis after the first 2 hours.*

5. *An electronic notary public is entitled to charge the amount of the additional fee for travel agreed to in advance by the person requesting the electronic notarial act pursuant to subsection 4 if:*

(a) *The person requesting the electronic notarial act cancels his request after the electronic notary public begins his travel to perform the requested electronic notarial act.*

(b) *The electronic notary public is unable to perform the requested electronic notarial act as a result of the actions of the person who requested the electronic notarial act or any other person who is necessary for the performance of the electronic notarial act.*

6. *For each additional fee for travel that an electronic notary public charges pursuant to subsection 4, the electronic notary public shall enter in the journal that he keeps pursuant to section 20 of this act:*

(a) *The amount of the fee; and*

(b) *The date and time that the electronic notary public began and ended such travel.*

7. *A person who employs an electronic notary public may prohibit the electronic notary public from charging a fee for an electronic notarial act that the electronic notary public performs within the scope of his employment. Such a person shall not require the electronic notary public whom he employs to surrender to him all or part of a fee charged by the electronic notary public for an electronic notarial act performed outside the scope of his employment.*

Sec. 18. 1. *An electronic notary public shall not willfully electronically notarize the signature or electronic signature of a person unless the person is in the presence of the electronic notary public at the time of notarization and:*

(a) *Is known to the electronic notary public; or*

(b) *If unknown to the electronic notary public, provides a credible witness or documentary evidence of identification to the electronic notary public.*

2. *A person who:*

(a) *Violates the provisions of subsection 1; or*

(b) *Aids and abets an electronic notary public to commit a violation of subsection 1,*

↳ *is guilty of a gross misdemeanor.*

3. *An electronic notary public shall not electronically notarize any electronic document related to the following:*

(a) *A will, codicil or testamentary trust; and*

*(b) Any transaction governed by the Uniform Commercial Code other than NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532, inclusive.*

*4. An appointment as an electronic notary public pursuant to sections 3 to 26, inclusive, of this act does not authorize the electronic notary public to perform notarial acts in another state.*

*Sec. 19. An electronic notarial act must be evidenced by the following, which must be attached to or logically associated with the electronic document that is the subject of the electronic notarial act and which must be immediately perceptible and reproducible:*

- 1. The electronic signature of the electronic notary public;*
- 2. The electronic seal of the electronic notary public; and*
- 3. The wording of a notarial certificate pursuant to NRS 240.1655, 240.166 to 240.167, inclusive, 240.1685 or 240.169.*

*Sec. 20. 1. An electronic notary public shall keep a journal of each electronic notarial act which includes, without limitation, the requirements of subsections 1 and 2 of NRS 240.120.*

*2. The Secretary of State may suspend the appointment of an electronic notary public who fails to produce any journal entry within 10 days after receipt of a request from the Secretary of State.*

*3. Upon resignation, revocation or expiration of an appointment as an electronic notary public, all notarial records required pursuant to this chapter must be delivered to the Secretary of State.*

*Sec. 21. 1. The electronic signature and electronic seal of an electronic notary public must be used only for the purposes of performing electronic notarial acts.*

*2. An electronic notary public shall safeguard his electronic signature, the electronic seal and all notarial records maintained by the electronic notary public as follows:*

*(a) When not in use, the electronic notary public shall keep the electronic signature, electronic seal and all notarial records secure, under the exclusive control of the electronic notary public and protected by a password where applicable.*

*(b) An electronic notary public shall not permit his electronic signature or electronic seal to be used by any other person.*

*(c) An electronic notary public shall not surrender or destroy his notarial records except as otherwise required by the order of a court or as allowed pursuant to this chapter or any regulations adopted pursuant thereto.*

*(d) Except as otherwise provided in subsection 3, an electronic notary public, within 10 days after discovering that his electronic signature or electronic seal has been stolen, lost, damaged or otherwise rendered incapable of affixing a legible image, shall:*

*(1) Inform the appropriate law enforcement agency in the case of theft or vandalism; and*

(2) Notify the Secretary of State in writing, including, without limitation, a signature using the name on the certificate of appointment issued pursuant to subsection 5 of section 12 of this act.

3. An electronic notary public shall take reasonable steps to maintain the technology or device used to create his electronic signature, and to ensure that the technology or device has not been recalled, revoked, terminated or otherwise rendered ineffective or unsecure by the entity that created the technology or device. Upon learning that the technology or device used to create his electronic signature has been rendered ineffective or unsecure, an electronic notary public shall cease performing electronic notarial acts until:

(a) A new technology or device is acquired; and

(b) The electronic notary public sends an electronic notice to the Secretary of State that includes, without limitation, the information required pursuant to paragraphs (d) and (e) of subsection 2 of section 12 of this act relating to the new technology or device.

Sec. 22. 1. Except as otherwise provided in subsection 3, if an electronic notary public dies or resigns during his appointment, or if the appointment of the electronic notary public is revoked or expires, the electronic notary public, the executor of his estate or his authorized representative, as appropriate, shall:

(a) Notify the Secretary of State of the resignation or death; and

(b) Erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature.

2. Upon receipt of the notice required by subsection 1, the Secretary of State shall cancel the appointment of the electronic notary public, effective on the date on which the notice was received.

3. A former electronic notary public whose previous appointment as an electronic notary public was not revoked and whose previous application for appointment as an electronic notary public was not denied is not required to erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature if he renews his appointment, using the same electronic signature, within 3 months after the expiration of his previous appointment as an electronic notary public.

Sec. 23. 1. A person who knowingly creates, manufactures or distributes software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed in accordance with sections 3 to 26, inclusive, of this act is guilty of a ~~category C felony and shall be punished as provided in NRS 193.130.~~ gross misdemeanor.

2. A person who wrongfully obtains, conceals, damages or destroys the technology or device used to create the electronic signature of an electronic notary public is guilty of a ~~category D felony and shall be punished as provided in NRS 193.130.~~ gross misdemeanor.

Sec. 24. 1. Except as otherwise provided in subsection 2, the Secretary of State shall, upon request, issue an authentication to verify that the electronic signature of the electronic notary public on an electronic

*document is genuine and that the electronic notary public holds the office indicated on the electronic document. The authentication must be:*

(a) *Signed by the Secretary of State; and*  
 (b) *In conformance with any relevant international treaties, agreements and conventions subscribed to by the Government of the United States, including, without limitation, the Hague Convention of October 5, 1961.*

2. *The Secretary of State shall not issue an authentication pursuant to subsection 1 if:*

(a) *The electronic document has not been electronically notarized in accordance with the provisions of this chapter and sections 3 to 26, inclusive, of this act; or*

(b) *The Secretary of State has reasonable cause to believe that the electronic document may be used to accomplish any fraudulent, criminal or unlawful purpose.*

Sec. 25. *The Secretary of State may adopt regulations to carry out the provisions of sections 3 to 26, inclusive, of this act.*

Sec. 26. *An electronic notary public shall comply with those provisions of NRS 240.001 to 240.169, inclusive, which are not inconsistent with sections 3 to 26, inclusive, of this act. To the extent that the provisions of NRS 240.001 to 240.169, inclusive, conflict with the provisions of sections 3 to 26, inclusive, of this act, the provisions of sections 3 to 26, inclusive, of this act control.*

Sec. 27. NRS 240.001 is hereby amended to read as follows:

240.001 As used in NRS 240.001 to 240.169, inclusive, and sections 3 to 26, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 240.002 to 240.005, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 28. NRS 240.007 is hereby amended to read as follows:

240.007 1. Except as otherwise provided in ~~subsection 2,~~ subsections 2 and 3, information and documents filed with or obtained by the Secretary of State pursuant to NRS 240.001 to 240.169, inclusive, and sections 2 to 26, inclusive, of this act are public information and are available for public examination.

2. *Information and documents filed with or obtained by the Secretary of State pursuant to or in accordance with subsection 6 of NRS 240.010 are not public information and are confidential.*

3. Except as otherwise provided in subsections ~~{3}~~ 4 and ~~{4}~~ 5 and in NRS 239.0115, information and documents obtained by or filed with the Secretary of State in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, and sections 2 to 26, inclusive, of this act are not public information and are confidential.

~~{3}~~ 4. The Secretary of State may submit any information or evidence obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, and sections 2 to 26,

*inclusive, of this act* to the appropriate district attorney for the purpose of prosecuting a criminal action.

~~[4.]~~ 5. The Secretary of State may disclose any information or documents obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, *and sections 2 to 26, inclusive, of this act* to an agency of this State or a political subdivision of this State.

Sec. 29. NRS 240.010 is hereby amended to read as follows:

240.010 1. The Secretary of State may appoint notaries public in this State.

2. The Secretary of State shall not appoint as a notary public a person:

(a) Who submits an application containing a substantial and material misstatement or omission of fact.

(b) Whose previous appointment as a notary public in this State has been revoked.

(c) ~~[Who]~~ *Except as otherwise provided in subsection 6, who* has been convicted of a crime involving moral turpitude, if the Secretary of State is aware of such a conviction before he makes the appointment.

(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.

(e) Who has not submitted to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

3. A notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as a notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to this chapter.

(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.

5. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.

6. *A person who has been convicted of a crime involving moral turpitude may apply for appointment as a notary public if he provides proof satisfactory to the Secretary of State that:*

(a) *More than 10 years have elapsed since the date of his release from confinement or the expiration of the period of his parole, probation or sentence, whichever is later;*

(b) *He has made complete restitution for his crime involving moral turpitude, if applicable; and*

(c) *He possesses his civil rights.*

Sec. 30. NRS 240.015 is hereby amended to read as follows:

240.015 1. Except as otherwise provided in this section, a person appointed as a notary public must:

(a) During the period of his appointment, be a citizen of the United States or lawfully admitted for permanent residency in the United States as verified by the United States Citizenship and Immigration Services.

(b) Be a resident of this State.

(c) Be at least 18 years of age.

(d) Possess his civil rights.

2. If a person appointed as a notary public ceases to be lawfully admitted for permanent residency in the United States during his appointment, he shall, within 90 days after his lawful admission has expired or is otherwise terminated, submit to the Secretary of State evidence that he is lawfully readmitted for permanent residency as verified by the United States Citizenship and Immigration Services. If the person fails to submit such evidence within the prescribed time, his appointment expires by operation of law.

3. The Secretary of State may appoint a person who resides in an adjoining state as a notary public if the person:

(a) Maintains a place of business in the State of Nevada ~~[and]~~ *that is licensed pursuant to NRS 360.780 and any applicable business licensing requirements of the local government where the business is located;* or

(b) Is regularly employed at an office, business or facility located within the State of Nevada by an employer licensed to do business in this State.

➔ If such a person ceases to maintain a place of business in this State or regular employment at an office, business or facility located within this State, the Secretary of State may suspend his appointment. The Secretary of State may reinstate an appointment suspended pursuant to this subsection if the notary public submits to the Secretary of State, before his term of appointment as a notary public expires, ~~[an affidavit which contains]~~ the information required pursuant to subsection 2 of NRS 240.030.

Sec. 31. NRS 240.030 is hereby amended to read as follows:

240.030 1. Each person applying for appointment as a notary public must:

(a) At the time he submits his application, pay to the Secretary of State \$35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer.

(c) Submit to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

(d) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant ~~[shall]~~ *must* submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada; ~~and~~

(b) *A copy of his state business license issued pursuant to NRS 360.780 and any business license required by the local government where the business is located, if he is self-employed; and*

(c) *Unless the applicant is self-employed, a copy of the state business license of his employer, a copy of any business license of his employer that is required by the local government where the business is located and an affidavit from his employer setting forth the facts ~~that~~ which show ~~:-~~*

~~(1) The employer is licensed to do business in the State of Nevada; and~~

~~(2) The~~ *that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.*

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his residential address or telephone number on any such document which will become available to the public.

4. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

5. The term of a notary public commences on the effective date of the bond required pursuant to paragraph (d) of subsection 1. A notary public shall not perform a notarial act after the effective date of the bond unless he has been issued a certificate of appointment.

6. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of \$10 for each duplicate or amended certificate of appointment which is issued to a notary. If the notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 32. NRS 240.031 is hereby amended to read as follows:

240.031 A notary public who is a resident of an adjoining state shall submit to the Secretary of State annually, within 30 days before the anniversary date of his appointment as a notary public, ~~an affidavit~~

~~containing~~ a copy of the state business license of his place of employment in the State of Nevada issued pursuant to NRS 360.780, a copy of any license required by the local government where the business is located and the information required pursuant to subsection 2 of NRS 240.030.

Sec. 33. NRS 240.147 is hereby amended to read as follows:

240.147 ~~{+}~~ It is unlawful for a person to knowingly destroy, deface or conceal a notarial record.

~~{2. As used in this section, "notarial record" means:~~

~~(a) The journal that a notary public is required to keep pursuant to NRS 240.120; and~~

~~(b) A document or other evidence retained by a notary public to record the performance of a notarial act.~~

Sec. 34. This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This amendment reduces category C and D felonies to gross misdemeanors, the penalties set forth in the bill for violations relating to electronic notary practices. This change conforms the penalties with other nonelectronic notary violations.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 122.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 78.

"SUMMARY—Revises the ~~{maximum amount of property tax assistance}~~ provisions governing refunds of property taxes for certain senior citizens. (BDR 38-104)"

"AN ACT relating to senior citizens; revising the ~~{maximum amount of property tax assistance that is available for certain senior citizens;}~~ provisions governing refunds of property taxes for senior citizens who meet certain requirements; revising the methods for calculating the amount of such a refund and the maximum allowable income to qualify for such a refund; requiring a county assessor who receives a claim for such a refund to determine the amount of the property taxes accrued on the property; requiring the amount of the property taxes accrued on the property to be reduced by certain exemptions under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a senior citizen who is at least 62 years of age and whose household income does not exceed a certain amount to receive a refund of all or a portion of the property tax accrued against his home. If the senior citizen owns his home, the amount of the refund must not exceed the amount of the accrued property tax or \$500, whichever is less.

(NRS 427A.515) Section 1 of this bill increases the maximum refund for such a senior citizen to ~~the amount of the accrued property tax or \$1,000, whichever is less,~~ account for inflation and revises the method of calculating the maximum household income allowable to qualify for such a refund to clarify the formula used to account for inflation.

If the senior citizen rents his home, the amount of the refund must not exceed an amount equal to that portion of the rent which is deemed to constitute the accrued property tax on the rental property. (NRS 427A.520) Currently, 8.5 percent of the total annual rent paid by such a senior citizen is deemed to constitute accrued property tax. (NRS 427A.525) Section 2 of this bill revises the amount of rent that is deemed to constitute accrued property tax to an amount equal to 8.5 percent of the total annual rent paid for the year or ~~[\$1,000,] \$500,~~ as adjusted for inflation, whichever is less.

Existing law provides that a senior citizen who wishes to claim a refund of the property taxes accrued on his home may file a claim for a refund with the county assessor of the county in which the home is located. Within 30 days after receiving the claim, the county assessor is required to determine the assessed valuation of the property to which the claim applies. (NRS 427A.530) Section 3 of this bill deletes the requirement that the county assessor determine the assessed valuation of the property and instead requires him to determine the amount of the property taxes accrued on the property.

Existing law requires the assessed valuation of any property that is used to determine the amount of a refund of the accrued taxes on the property for senior citizens to be reduced by the amount of any property tax exemption received by a person who is a surviving spouse of a senior citizen or a person who is blind or is a veteran. (NRS 427A.545) Section 4 of this bill requires a reduction in the amount of the property taxes accrued on the property in lieu of a reduction in the amount of the assessed valuation of the property.

Existing law requires all claims against the Senior Citizens' Property Tax Assistance Account to be certified by the Chief of the Aging Services Division of the Department of Health and Human Services or his designee. If a claim is so certified and the State Board of Examiners approves the claim, the State Controller is required to draw his warrant against the Account. (NRS 427A.595) Section 5 of this bill deletes the requirement for approval of the claim by the State Board of Examiners.

Sections 6 and 7 of this bill cause the provisions of sections 3, 4 and 5 of this bill to apply beginning with the current tax year and sections 1 and 2 of this bill to apply beginning with the 2011-2012 tax year.

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

Section 1. NRS 427A.515 is hereby amended to read as follows:

427A.515 1. A senior citizen whose home is placed upon the secured or unsecured tax roll, who has owned the home and maintained it as his primary residence since July 1 immediately preceding the filing of his claim

and whose household income is not more than \$24,016, as adjusted pursuant to subsection 3, is entitled to a refund of the property tax accrued against his home, except as otherwise provided in subsection 2, as follows:

(a) If the amount of the applicant's household income is at or below the federally designated level signifying poverty for a family unit of one or two, the applicant is entitled to a refund of 100 percent of the property taxes accrued.

(b) If the amount of the applicant's household income is above the federally designated level signifying poverty for a family unit of one or two, the applicant is entitled to a refund of a percentage of the property taxes accrued based on a graduated schedule adopted by the Division.

2. The amount of the refund must not exceed the *lesser of*:

(a) *The amount of the accrued property tax ; or*

(b) *The sum of \$500, ~~[\$1,000, whichever is less.]~~ as adjusted for each fiscal year by adding to that sum the product of \$500 multiplied by the percentage increase in the Consumer Price Index for All Urban Consumers, U.S. City Average (All Items, Not Seasonally Adjusted), from November 2002 to the November preceding the fiscal year for which the adjustment is calculated.*

3. The maximum allowable income to qualify for a refund set forth in subsection 1 must be adjusted for each fiscal year by adding to \$24,016 the product of \$24,016 multiplied by the percentage increase in the Consumer Price Index *for All Urban Consumers, U.S. City Average (All Items, Not Seasonally Adjusted)*, from ~~December~~ *November* 2002 to the November preceding the fiscal year for which the adjustment is calculated.

Sec. 2. NRS 427A.525 is hereby amended to read as follows:

427A.525 Rent deemed to constitute accrued property tax is ~~[8.5]~~ *the lesser of:*

1. *Eight and one-half percent of the total annual rent which a claimant has paid [-] ; or ~~[\$1,000, whichever is less.]~~*

2. *The sum of \$500, as adjusted for each fiscal year by adding to that sum the product of \$500 multiplied by the percentage increase in the Consumer Price Index for All Urban Consumers, U.S. City Average (All Items, Not Seasonally Adjusted), from November 2002 to the November preceding the fiscal year for which the adjustment is calculated.*

Sec. 3. ~~NRS 427A.530~~ *is hereby amended to read as follows:*

427A.530 1. A claim may be filed with the assessor of the county in which the claimant's home or mobile home lot is located not earlier than February 1 and not later than April 30.

2. The claim must be made under oath and filed in such form and content, and accompanied by such proof, as the Division may prescribe.

3. The Division or county assessor shall provide the appropriate form to each claimant.

4. The county assessor shall, within 30 days after receiving a claim: ~~for a refund.~~

- (a) Process the application;
- (b) Determine the ~~assessed valuation of~~ property taxes accrued on the property to which the claim applies, if applicable; and
- (c) Submit the claim to the Division.

5. The Division shall not accept a claim submitted pursuant to subsection 4 after July 1, unless an extension of time to file a claim is provided for by regulation pursuant to NRS 427A.590.

~~Sec. 3.]~~ Sec. 4. NRS 427A.545 is hereby amended to read as follows:

427A.545 1. A person may receive assistance pursuant to the provisions of NRS 427A.450 to 427A.600, inclusive, while receiving a property tax exemption as a surviving spouse, person who is blind or veteran if the person has filed a claim for the exemption with the county assessor.

2. The ~~assessed valuation of~~ property taxes accrued on any property used to determine a refund pursuant to the provisions of NRS 427A.450 to 427A.600, inclusive, must be reduced by the amount of such an exemption.

~~Sec. 4.]~~ Sec. 5. NRS 427A.595 is hereby amended to read as follows:

427A.595 1. Money to pay for assistance granted to senior citizens pursuant to the provisions of NRS 427A.450 to 427A.600, inclusive, must be provided by legislative appropriation from the State General Fund. The money so appropriated must be transferred to the Senior Citizens' Property Tax Assistance Account in the State General Fund.

2. The Administrator may, from time to time, obtain from the State Controller a statement of the balance in the Senior Citizens' Property Tax Assistance Account. The Administrator shall provide for full refunds of all just claims if the total amount of the claims does not exceed the balance in the Account. If the total amount of the claims exceeds that balance, the Administrator shall proportionately reduce each claim paid pursuant to paragraph (b) of subsection 1 of NRS 427A.515.

3. Money for the administration of the provisions of NRS 427A.450 to 427A.600, inclusive, must be provided by legislative appropriation to the Senior Citizens' Property Tax Assistance Account. From this Account, the sum of \$4 must be allowed for each claim which is received by the county assessor and submitted to the Division.

4. All claims against the Senior Citizens' Property Tax Assistance Account must be certified by the Administrator or a person designated by the Administrator and, if certified, ~~and approved by the State Board of Examiners,~~ the State Controller shall draw his warrant against the Account.

5. Any money remaining in the Senior Citizens' Property Tax Assistance Account at the end of the fiscal year must remain in the Account and is available for use in the following fiscal year.

Sec. 6. The amendatory provisions of:

1. Sections 3, 4 and 5 of this act apply to claims for assistance filed pursuant to NRS 427A.450 to 427A.600, inclusive, on or after January 1, 2009.

2. Sections 1 and 2 of this act apply to claims for assistance filed pursuant to NRS 427A.450 to 427A.600, inclusive, on or after January 1, ~~2010~~ 2012.

Sec. 7. 1. This section and sections 3 to 6, inclusive, of this act become effective upon passage and approval.

2. Sections 1 and 2 of this act ~~becomes~~ become effective on July 1, ~~2009~~ 2011.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Amendment No. 78 makes administrative changes regarding the calculation of refunds for the Senior Citizens Property Tax Assistance Program. The calculations performed by county assessors are changed to reflect the property taxes accrued rather than assessed value of the property.

The annual calculation to determine the maximum income level is adjusted to reflect the change in the Consumer Price Index from November to November rather than December to November of each year to be consistent with the calculations performed by the Aging Services Division.

Amendment No. 78 also allows the maximum refund amount of \$500 to be increased annually to account for inflation based on increases in the Consumer Price Index for refunds payable beginning in Fiscal Year 2013.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 194.

Bill read second time.

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

Amendment No. 73.

"SUMMARY—Revises provisions governing the appointment and duties of public administrators and guardians. (BDR 20-181)"

"AN ACT relating to certain public officials; making the district attorney of Humboldt County the ex officio public administrator of Humboldt County; revising certain provisions regarding the administration of certain estates; revising certain provisions regarding the appointment of public guardians; repealing certain provisions relating to public administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill amends a number of provisions governing public administrators who are public officials that administer the estates of decedents having no qualified person willing and able to do so. Sections 2 and 9 of this bill provide for the district attorney of Humboldt County to serve, ex officio, as the public administrator of the county, as the district attorneys for Lander, Lincoln and White Pine counties do currently. (NRS 253.010, 253.050) Section 2 also authorizes the board of county commissioners in any county with an elected public administrator to appoint the public administrator if the office becomes vacant.

Under existing law, a public administrator may secure the property of a decedent if the public administrator finds that the decedent has no relatives able to protect the property and that failure to do so could endanger the property. (NRS 253.0405) Section 3 of this bill ~~[prohibits]~~ *authorizes* a public administrator ~~from entering real property that has been conveyed in a deed that becomes effective upon the death of the grantor. (NRS 253.0405)]~~ *to secure the property of a decedent if either, not both, of those conditions exist.* Section 4 of this bill revises the notice requirements before a public administrator may donate or destroy certain property. (NRS 253.0407) Sections 5 and 6 of this bill require and authorize a public administrator to conduct certain investigations. (NRS 253.0415, 253.042) Section 7 of this bill increases the maximum value of an estate that may be set aside without administration. (NRS 253.0425)

Under existing law, certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 253.041, 253.0415-253.0435) Section 14 of this bill repeals NRS 253.041 so that the powers and duties set forth in NRS 253.0415 to 253.0435, inclusive, apply to public administrators in all counties. Conversely, existing law also sets forth that certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 253.044, 253.0445, 253.045) Section 14 repeals those provisions.

This bill also amends provisions governing public guardians. Section 10 of this bill requires a public guardian to retain records relating to guardianships for at least 7 years. (NRS 253.190) Section 11 of this bill adds to the requirements for a resident of Nevada to be eligible to have a county public guardian appointed as his permanent or general individual guardian. (NRS 253.200)

Currently, a public guardian may demand certain information from a proposed ward—a person for whom proceedings for the appointment of a guardian have begun—or from the spouse, parent, child or other kindred of a proposed ward, but not from a person for whom a guardian has been appointed. (NRS 253.220) Section 12 of this bill revises that provision so that the information can be demanded from or about a ward but not a proposed ward.

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

Section 1. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting

on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[-253.044]~~ or 253.220.

(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

- (a) Each person to whom the information is sold or disclosed; and
- (b) The purpose for which that person will use the information.

Sec. 2. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in ~~[subsection 4,]~~ *subsections 4 and 5*, public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

- (a) Be a qualified elector of the county;
- (b) Be at least 21 years of age on the date he will take office;
- (c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and
- (d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of *Humboldt*, Lander, Lincoln and White Pine Counties are ex officio public administrators of *Humboldt County*, Lander County, Lincoln County and White Pine County, respectively. The Clerk of Carson City shall serve as Public Administrator of Carson City.

5. *In a county other than Carson City and Humboldt, Lander, Lincoln and White Pine Counties, if, for any reason, the office of public administrator becomes vacant, the board of county commissioners may appoint a public administrator for the remainder of the unexpired term.*

Sec. 3. NRS 253.0405 is hereby amended to read as follows:

253.0405 Before

~~1. Except as otherwise provided in subsection 2, before~~ the issuance of the letters of administration for an estate, before filing an affidavit to administer an estate pursuant to NRS 253.0403 or before petitioning to have an estate set aside pursuant to NRS 253.0425, the public administrator may secure the property of a deceased person if he finds that:

1. ~~(a)~~ There are no relatives of the deceased who are able to protect the property; ~~and~~ or

2. ~~(b)~~ Failure to do so could endanger the property.

~~2. A public administrator shall not enter upon real property that is the subject of a deed which becomes effective upon the death of the grantor pursuant to NRS 111.109 and which is valid pursuant to NRS 111.109.~~

Sec. 4. NRS 253.0407 is hereby amended to read as follows:

253.0407 1. Except as otherwise provided in subsection 2, a public administrator, with regard to the personal property of the estate of ~~a ward or~~ a decedent, may donate property that has a value of less than \$250 to a nonprofit organization, or destroy property that has a value of less than \$100, if ~~:-~~

~~(a) The property, if that of a ward, is not necessary for the care or comfort of the ward; and~~

~~(b) A~~ notice of intent to donate or destroy the property is ~~:-~~

~~(1) Mailed~~ mailed by certified mail or delivered personally to the ~~ward's or~~ decedent's next of kin ~~at his last known home address; or~~

~~(2) Personally delivered to him;~~

~~and that person fails to claim~~ and the property is not claimed within 15 days.

2. A public administrator may authorize the immediate destruction of the property of a ~~ward or~~ decedent, without giving notice to the next of kin, if:

(a) The administrator determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property may endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than \$100 or, if the value of the property is \$100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 5. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(3) ~~Whether there are beneficiaries named on any asset of the estate or for~~ whether any deed which becomes effective upon the death of the grantor upon death executed pursuant to NRS 111.109 and which is valid pursuant to NRS 111.109, is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of ~~a person dying~~ *an intestate decedent* if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of ~~a person dying intestate,~~ *an intestate decedent*, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. ~~The public administrator is not eligible to serve as a guardian of the person and estate of a ward unless the board of county commissioners has designated the public administrator as ex officio public guardian.~~ The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased;

(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust, deed upon death, beneficiary designation or other estate plan.

Sec. 6. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records, otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

3. *Investigate the assets and personal and family history of any decedent for whom he has been requested to serve as administrator, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.*

Sec. 7. NRS 253.0425 is hereby amended to read as follows:

253.0425 1. If the public administrator finds that there is no qualified person willing and able to administer the estate of a particular decedent, he shall investigate further to estimate its gross value.

2. If the estate appears to have a gross value of ~~[\$50,000]~~ \$100,000 or less, he shall:

(a) Assist a proper person to petition to have it set aside without administration or directly receive the assets from a custodian, as the facts may warrant;

(b) Himself petition to have the estate set aside without administration and properly distributed; or

(c) Administer the estate pursuant to NRS 253.0403.

3. If the estate appears to have a gross value of more than ~~[\$50,000;]~~ \$100,000:

(a) He shall proceed with summary or full administration as the value of the estate requires.

(b) He may retain an attorney to assist him, rotating this employment in successive estates among the attorneys practicing in the county who are qualified by experience and willing to serve. The attorney's fee is a charge upon the estate.

Sec. 8. NRS 253.0447 is hereby amended to read as follows:

253.0447 A public administrator ~~[, or other suitable person designated by the board of county commissioners, who is authorized to perform the duties set forth in NRS 253.044,]~~ may file with the board of county commissioners a request for payment for expenses incurred in the performance of such duties. The amount to be paid as expenses must be determined by the board. ~~[of county commissioners.]~~ Payment must be made from the general fund of the county if the board ~~[of county commissioners]~~ approves the request and determines that there is sufficient money in the fund to pay the public administrator or other suitable person designated by the board to perform those duties. This section does not require the board ~~[of county commissioners]~~ to authorize payment of any expense that can be paid from the assets of a person or an estate. ~~[subject to NRS 253.044.]~~

Sec. 9. NRS 253.050 is hereby amended to read as follows:

253.050 1. For the administration of the estates of deceased persons, public administrators are entitled to be paid as other administrators or executors are paid, subject to the provisions of NRS 245.043.

2. The district attorneys of *Humboldt*, Lander, Lincoln and White Pine counties as ex officio public administrators and the clerk of Carson City

serving as public administrator of Carson City may retain all fees provided by law received by them as public administrators.

3. The public administrator is entitled to compensation from the estate or from beneficiaries for the reasonable value of his services performed in preserving the property of an estate of a deceased person before the appointment of an administrator. Compensation must be set by the board of county commissioners.

Sec. 10. NRS 253.190 is hereby amended to read as follows:

253.190 A public guardian shall ~~keep~~ :

1. *Keep* financial and other appropriate records concerning all cases in which he is appointed as an individual guardian ~~[-]~~ ; *and*

2. *Retain*:

(a) *All such financial records for each case for at least 7 years after the date of the transaction that is recorded in the record; and*

(b) *All other records for each case for at least 7 years after the termination of the guardianship pursuant to chapter 159 of NRS.*

Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his permanent or general individual guardian if ~~he~~:

~~(a) Has~~ :

(a) *The proposed ward has no relative or friend ~~able~~ suitable and willing to serve as his guardian; ~~and~~*

~~(b) Is~~

(b) *The proposed ward is a resident of that county ~~[-]~~ ;*

(c) *The public guardian is able to identify a source to pay for the care of the proposed ward; and*

(d) *The public guardian is able to establish a case plan for the guardianship.*

3. A person qualified pursuant to subsection 1 or 2, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

The undersigned is the Public Guardian or a Deputy Public Guardian of ..... County. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian ~~[prior to]~~ *before* the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

Sec. 12. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian may investigate the financial status, assets and personal and family history of any person for whom the public guardian has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require any ~~[proposed]~~ ward or any spouse, parent, child or other kindred of the ~~[proposed]~~ ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 13. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or

an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 [~~253.044~~] or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↪ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;

- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

- (a) Each person to whom the information is provided; and
- (b) The purpose for which that person will use the information.

↪ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 14. NRS ~~253.030~~, 253.041, 253.044, 253.0445 and 253.045 are hereby repealed.

Sec. 15. Notwithstanding any other provision of this act, the term of office of the person who holds the office of Public Administrator of

Humboldt County on July 1, 2009, does not expire until that term would ordinarily expire pursuant to subsection 2 of NRS 253.010.

Sec. 16. 1. This section and sections 2, 9 and 15 of this act become effective on July 1, 2009.

2. Sections 1, 3 to 8, inclusive, and 10 to 14, inclusive, of this act become effective on October 1, 2009.

~~[TEXT]~~ LEADLINES OF REPEALED SECTIONS

253.030 Vacancy: Applicable law governing appointment; qualification of appointee.

253.041 County whose population is 100,000 or more: Applicability of NRS 253.041 to 253.0435, inclusive. ~~[NRS 253.041 to 253.0435, inclusive, apply to a county whose population is 100,000 or more.]~~

253.044 County whose population is less than 100,000: Service as administrator of estate of intestate decedent. ~~[In a county whose population is less than 100,000, the board of county commissioners may, after reviewing each case, direct the public administrator or any other suitable person to:~~

~~1. Investigate whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent, and to determine whether there is a need for an administrator and whether the public administrator or other suitable person designated by the board is eligible to serve in that capacity.~~

~~2. Petition the court for letters of administration of the estate of a person dying intestate if, after investigation, the public administrator or other suitable person designated by the board finds that there is no other qualified person having a prior right who is willing and able to serve.~~

~~3. File an affidavit pursuant to NRS 253.0403 to administer the estate if, after investigation, the public administrator or other suitable person designated by the board finds that the gross value of the decedent's property situated in this State does not exceed \$20,000.~~

~~4. Act, upon order of a court, as administrator of the estate of a person dying intestate, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.]~~

253.0445 County whose population is less than 100,000: Access to information. ~~[In an investigation conducted pursuant to subsection 1 of NRS 253.044, a public administrator or other suitable person designated by the board of county commissioners may:~~

~~1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator or other suitable person designated by the board with access to records, otherwise confidential, needed to evaluate the public administrator's or other suitable person's eligibility to serve.~~

~~2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.]~~

253.045 Additional duties in county whose population is less than 100,000. ~~In addition to other duties provided in this chapter, in counties having a population of less than 100,000, the public administrator shall:~~

~~1. Obtain all information concerning deceased persons and their estates which is required to be given to him by:~~

~~(a) The county health officer;~~

~~(b) The sheriff or any constable; or~~

~~(c) Any other public officers.~~

~~2. Contact the next of kin of any deceased person listed in the report filed by the county health officer concerning the administration of that person's estate.~~

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This amendment does five things. First, it removes language that would have prohibited a public administrator from entering upon real property under certain circumstances. Second, it clarifies a public administrator's authorization to secure the property of a deceased person. Third, it removes language that would have required the public administrator to investigate whether there are beneficiaries named on any asset of the estate upon the death of the grantor and, instead, requires the public administrator to determine whether there are beneficiaries named on any assets or deeds on file with the county recorder. Fourth, it clarifies the definition of "intestate decedent." Fifth, it sets forth parameters as to when a public administrator shall not administer an estate.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 197.

Bill read second time.

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

Amendment No. 94.

"SUMMARY—Revises provisions relating to the reissuance of certain prescription drugs. (BDR 39-804)"

"AN ACT relating to drugs; authorizing certain facilities to return certain prescription drugs for reissuance by nonprofit pharmacies; establishing procedures and requirements for the reissuance of certain prescription drugs transferred to nonprofit pharmacies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows public and private mental health facilities, facilities for skilled nursing, ~~and~~ facilities for intermediate care *and correctional facilities* to return to the dispensing pharmacy certain prescription drugs that are dispensed to a patient of the facility but not used by that patient and to reissue those drugs to other patients of the facility. (NRS 433.801, 449.2485 ~~¶~~, ~~639.2675~~) Sections 1, ~~and~~ 2 *and 6* of this bill authorize those facilities to return to the dispensing pharmacy such drugs for reissuance by a nonprofit

pharmacy designated by the State Board of Pharmacy to reissue the drugs. Section 3 of this bill authorizes nonprofit pharmacies to reissue those drugs for other prescriptions in the pharmacy free of charge. Section 3 also provides that a person, pharmacy, facility or pharmaceutical manufacturer is immune from certain civil liability for damages sustained as a result of any act or omission in carrying out the provisions relating to the transfer and reissuance of those drugs. The Board is required to adopt regulations to carry out the provisions of this bill.

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

Section 1. NRS 433.801 is hereby amended to read as follows:

433.801 1. A public or private mental health facility may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility *or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act* if:

- (a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS;]~~ *controlled substance*;
- (b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;
- (c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;
- (d) The usefulness of the drug has not expired;
- (e) The packaging or bottle contains the expiration date of the usefulness of the drug; and
- (f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~ :

(a) *Reissue* the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[ ]~~; *or*

(b) *Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.*

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A mental health facility shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

- (a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of such drugs as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) *Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.*

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 2. NRS 449.2485 is hereby amended to read as follows:

449.2485 1. A facility for skilled nursing or a facility for intermediate care may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility *or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act* if:

(a) The drug is not a ~~schedule II drug specified in or pursuant to chapter 453 of NRS;~~ *controlled substance;*

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~reissue~~ :

(a) *Reissue* the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[-]~~ ; *or*

(b) *Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.*

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A facility for skilled nursing or facility for intermediate care shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of drugs to dispensing pharmacies as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) *Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.*

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 3. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A nonprofit pharmacy designated by the Board in accordance with the regulations adopted pursuant to subsection 5 to which a drug is transferred pursuant to NRS 433.801, ~~for~~ 449.2485 or 639.2675 may reissue the drug to fill other prescriptions in the same pharmacy free of charge if the registered pharmacist of the nonprofit pharmacy determines that the drug is suitable for that purpose in accordance with the requirements adopted by the Board pursuant to subsection 5 and if:*

*(a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS;]~~ controlled substance;*

*(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;*

*(c) The drug is unopened and sealed in the original manufacturer's packaging or bottle;*

*(d) The usefulness of the drug has not expired;*

*(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and*

*(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the reissuance of the drug.*

2. *A person, pharmacy, facility or pharmaceutical manufacturer is immune from civil liability for damages sustained as a result of any act or omission in carrying out the provisions of this section if:*

*(a) That person, pharmacy, facility or pharmaceutical manufacturer complied with the procedures adopted pursuant to subsection 4 and the regulations adopted pursuant to subsection 5; and*

*(b) The act or omission does not amount to gross negligence or willful misconduct.*

↪ *Before receiving a drug pursuant to this section, a person or his guardian, if applicable, must sign a form acknowledging that he understands the provisions of this subsection.*

3. *No drug that is transferred to a nonprofit pharmacy pursuant to this section may be used to fill other prescriptions more than one time.*

4. *A nonprofit pharmacy shall adopt written procedures for accepting and reissuing drugs pursuant to this section. The procedures must:*

(a) *Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted before being reissued.*

(b) *Require the maintenance and retention of records relating to the acceptance and use of the drugs and any other records as are required by the Board.*

(c) *Be approved by the Board.*

5. *The Board shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation:*

(a) *Requirements for reissuing drugs pursuant to this section.*

(b) *Requirements for accepting drugs transferred to a nonprofit pharmacy pursuant to the provisions of this section and NRS 433.801, ~~449.2485~~ 449.2485 and 639.2675.*

(c) *Requirements for maintaining records relating to the acceptance and use of drugs to fill other prescriptions pursuant to this section.*

(d) *The criteria and procedure for obtaining a designation as a nonprofit pharmacy for the purposes of this section, including, without limitation, provisions for a pharmacy, registered pharmacist or practitioner who is registered with the Board to be designated as a nonprofit pharmacy.*

Sec. 4. NRS 639.063 is hereby amended to read as follows:

639.063 1. The Board shall prepare an annual report concerning drugs that are returned or transferred to pharmacies pursuant to NRS 433.801, 449.2485 and 639.2675 and section 3 of this act and are reissued to fill other prescriptions. The report must include, without limitation:

(a) The number of drugs that are returned to dispensing pharmacies.

(b) *The number of drugs that are transferred to nonprofit pharmacies designated by the Board pursuant to section 3 of this act.*

(c) The number of drugs that are reissued to fill other prescriptions.

~~(e)~~ (d) An estimate of the amount of money saved by reissuing such drugs to fill other prescriptions.

~~(d)~~ (e) Any other information that the Board deems necessary.

2. The report must be:

(a) Available for public inspection during regular business hours at the office of the Board; and

(b) Posted on a website or other Internet site that is operated or administered by or on behalf of the Board.

Sec. 5. NRS 639.267 is hereby amended to read as follows:

639.267 1. As used in this section, "unit dose" means that quantity of a drug which is packaged as a single dose.

2. A pharmacist who provides a regimen of drugs in unit doses to a patient in a facility for skilled nursing or facility for intermediate care as defined in chapter 449 of NRS may credit the person or agency which paid for the drug for any unused doses. The pharmacist may return the drugs to the dispensing pharmacy, which may reissue the drugs to fill other prescriptions *or transfer the drugs* in accordance with the provisions of NRS 449.2485.

3. Except schedule II drugs specified in or pursuant to chapter 453 of NRS and except as otherwise provided in NRS 433.801, 449.2485 and 639.2675 ~~[,]~~ *and section 3 of this act*, unit doses packaged in ampules or vials which do not require refrigeration may be returned to the pharmacy which dispensed them. The Board shall, by regulation, authorize the return of any other type or brand of drug which is packaged in unit doses if the Food and Drug Administration has approved the packaging for that purpose.

*Sec. 6. NRS 639.2675 is hereby amended to read as follows:*

639.2675 1. A prescription drug that is dispensed by a pharmacy to an offender incarcerated in a correctional institution, but will not be used by that offender, may be returned to that dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for offenders incarcerated in that correctional institution or for the purposes of transferring the drug to a nonprofit pharmacy designated by the Board pursuant to section 3 of this act if:

- (a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS,]~~ controlled substance;
- (b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;
- (c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;
- (d) The usefulness of the drug has not expired;
- (e) The packaging or bottle contains the expiration date of the usefulness of the drug; and
- (f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~:

(a) Reissue the drug to fill other prescriptions for offenders incarcerated in the same correctional institution if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the Board pursuant to subsection 5 ~~[,]~~; *or*

(b) Transfer the drug to a nonprofit pharmacy designated by the Board pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. The director of a correctional institution shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

- (a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.
- (b) Require the maintenance and retention of such records relating to the return of such drugs as are required by the Board.
- (c) Be approved by the Board.

5. The Board shall adopt such regulations as are necessary to carry out the provisions of this section including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

6. As used in this section, "correctional institution" means an institution or facility operated by the Department of Corrections.

~~[Sec. 6.]~~ Sec. 7. NRS 639.282 is hereby amended to read as follows:

639.282 1. Except as otherwise provided in NRS 433.801, 449.2485, 639.267 and 639.2675 ~~[.]~~ and section 3 of this act, it is unlawful for any person to have in his possession, or under his control, for the purpose of resale, or to sell or offer to sell or dispense or give away, any pharmaceutical preparation, drug or chemical which:

- (a) Has been dispensed pursuant to a prescription or chart order and has left the control of a registered pharmacist or practitioner;
- (b) Has been damaged or subjected to damage by heat, smoke, fire or water, or other cause which might reasonably render it unfit for human or animal use;
- (c) Has been obtained through bankruptcy or foreclosure proceedings, or other court action, auction or other legal or administrative proceedings, except when the pharmaceutical preparation, drug or chemical is in the original sealed container;
- (d) Is no longer safe or effective for use, as indicated by the expiration date appearing on its label; or
- (e) Has not been properly stored or refrigerated as required by its label.

2. The provisions of subsection 1 do not apply if the person in whose possession the pharmaceutical preparation, drug or chemical is found also has in his possession a valid and acceptable certification of analysis attesting to the purity and strength of the pharmaceutical preparation, drug or chemical and attesting to the fact that it can be safely and effectively used by humans or animals. The preparation, drug or chemical must not be sold or otherwise disposed of until the certification required by this subsection has been presented to and approved by the Board.

3. In the absence of conclusive proof that the preparation, drug or chemical can be used safely and effectively by humans or animals, it must be destroyed under the direct supervision of a member or an inspector of the Board, or two persons designated as agents by the Board who include an inspector of a health care board, a licensed practitioner of a health care board or a peace officer of an agency that enforces the provisions of chapters 453 and 454 of NRS.

4. As used in this section, "health care board" includes the State Board of Pharmacy, the State Board of Nursing, the Board of Medical Examiners and the Nevada State Board of Veterinary Medical Examiners.

~~{Sec. 7}~~ *Sec. 8.* 1. This section and sections 1, 2, ~~and~~ 3 *and* 6 of this act become effective upon passage and approval for the purposes of adopting regulations and on October 1, 2009, for all other purposes.

2. Sections 4, 5 and ~~{6}~~ 7 of this act become effective on October 1, 2009.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 94 to Senate Bill No. 197 authorizes the Department of Corrections to donate unused drugs to nonprofit pharmacies as well as the other entities listed in the bill, and clarifies that drugs that are controlled substances, narcotics, are not eligible for reissuance. The Nevada Board of Pharmacy made this recommendation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 224.

Bill read second time and ordered to third reading.

Senate Bill No. 230.

Bill read second time.

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

Amendment No. 101.

"SUMMARY—Revises provisions governing certain licenses issued by the Real Estate Division of the Department of Business and Industry. (BDR 54-864)"

"AN ACT relating to real estate; revising provisions governing certain licenses issued by the Real Estate Division of the Department of Business and Industry; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that: (1) the initial period of licensure for an original license as a real estate broker, broker-salesman or salesman is 12 consecutive months beginning on the first day of the first calendar month after the original license is issued by the Real Estate Division of the Department of Business and Industry; and (2) each subsequent period of licensure is 24 consecutive months. Existing law additionally provides that other licenses

issued pursuant to chapter 645 of NRS are issued for a period of 24 consecutive months. (NRS 645.780) Sections 1 and 2 of this bill increase the period of initial licensure for a license as a real estate broker, broker-salesman or salesman from 12 to 24 consecutive months and each subsequent period of licensure from 24 to 48 consecutive months. Sections 1 and 2 also increase the period of licensure for other licenses issued by the Division from 24 to 48 consecutive months. (NRS 645.490)

Section 3 of this bill increases the fee for each original license of a real estate broker, broker-salesman, corporate broker, real estate salesman and branch office, and each renewal of such a license, to correspond with the increase in the period of licensure of each license pursuant to sections 1 and 2 of this bill. Section 3 also increases the penalty for the late filing of a renewal for such licenses. (NRS 645.830)

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

Section 1. NRS 645.490 is hereby amended to read as follows:

645.490 1. Upon satisfactorily passing the written examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be granted by the Division to the successful applicant therefor as a real estate broker, broker-salesman or salesman, and the applicant, upon receiving the license, may conduct the business of a real estate broker, broker-salesman or salesman in this State.

2. The Division shall issue licenses as a real estate broker, broker-salesman or salesman to all applicants who qualify and comply with all provisions of law and all requirements of this chapter.

3. Except as otherwise provided in NRS 645.785:

(a) An original license as a real estate broker, broker-salesman or salesman must be renewed with the Division before the expiration of the initial license period of ~~{12}~~ 24 consecutive months as prescribed in NRS 645.780; and

(b) Thereafter, the license must be renewed with the Division before the expiration of each subsequent license period of ~~{24}~~ 48 consecutive months as prescribed in NRS 645.780.

Sec. 2. NRS 645.780 is hereby amended to read as follows:

645.780 1. Each license issued under the provisions of this chapter expires at midnight on the last day of the last month of the applicable license period for the license.

2. The initial license period for an original license as a real estate broker, broker-salesman or salesman is a period of ~~{12}~~ 24 consecutive months beginning on the first day of the first calendar month after the original license is issued by the Division. Thereafter, each subsequent license period is a period of ~~{24}~~ 48 consecutive months beginning on the first day of the first calendar month after a renewal of the license is issued by the Division for the subsequent license period.

3. For all other licenses, the license period is a period of ~~[24]~~48 consecutive months beginning on the first day of the first calendar month after the license or any renewal of the license is issued by the Division, unless a specific statute:

- (a) Provides for a different license period; or
- (b) Expressly authorizes a different license period to be provided for by regulation.

4. The Division may:

- (a) Create and maintain a secure website on the Internet through which each license, permit, certificate or registration issued pursuant to the provisions of this chapter may be renewed; and
- (b) For each license, permit, certificate or registration renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 3. NRS 645.830 is hereby amended to read as follows:

645.830 1. The following fees must be charged by and paid to the Division:

For each original real estate broker's, broker-salesman's or corporate broker's license .....	<del>[\$105]</del> \$210
For each original real estate salesman's license .....	<del>[85]</del> 170
For each original branch office license .....	<del>[120]</del> 240
For real estate education, research and recovery to be paid at the time an application for an original license is filed .....	40
For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed .....	<del>[40]</del> 80
For each renewal of a real estate broker's, broker-salesman's or corporate broker's license .....	<del>[180]</del> 360
For each renewal of a real estate salesman's license .....	<del>[140]</del> 280
For each renewal of a real estate branch office license .....	<del>[110]</del> 220
For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license .....	<del>[95]</del> 190
For each penalty for late filing of a renewal for a salesman's license .....	<del>[75]</del> 150
For each change of name or address .....	\$20
For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment .....	20
For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof .....	20
For each change of broker status from broker to broker-salesman .....	20

For each change of broker status from broker-salesman to broker..... 40

For each reinstatement to active status of an inactive real estate broker's, broker-salesman's or salesman's license..... 20

For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location..... 30

For each reinstatement of a real estate salesman's or broker-salesman's license when he fails to notify the Division of a change of broker within 30 days of termination by previous broker..... 30

For each original registration of an owner-developer..... 125

For each annual renewal of a registration of an owner-developer..... 125

For each enlargement of the area of an owner-developer's registration..... 50

For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof..... 150

For each original accreditation of a course of continuing education..... 100

For each renewal of accreditation of a course of continuing education..... 50

For each annual approval of a course of instruction offered in preparation for an original license or permit..... 100

2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:

- (a) Any university, state college or community college of the Nevada System of Higher Education.
- (b) Any agency of the State.
- (c) Any regulatory agency of the Federal Government.

3. The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.

Sec. 4. The amendatory provisions of this act apply to licenses issued or renewed by the Real Estate Division of the Department of Business and Industry pursuant to chapter 645 of NRS on or after July 1, ~~2009~~, 2011.

Sec. 5. This act becomes effective on July 1, ~~2009~~, 2011.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

This amendment increases the penalties for late filing for the license-renewal application, and the amendment also extends the effective date of this measure from 2009 to 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 256.

Bill read second time.

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

Amendment No. 149.

"SUMMARY—Designates an area on the grounds of Northern Nevada Adult Mental Health Services as a historic cemetery. (BDR S-922)"

"AN ACT relating to the grounds of Northern Nevada Adult Mental Health Services; designating an area on the grounds of Northern Nevada Adult Mental Health Services as a historic cemetery and providing the boundaries of the cemetery; requiring the reinterment of certain human remains found outside the boundaries of the cemetery; requiring the Office of Historic Preservation of the Department of Cultural Affairs to ~~maintain~~ *oversee the maintenance and improvement of* the cemetery; requiring the State of Nevada to terminate a lease of a portion of the cemetery to the City of Sparks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The grounds of Northern Nevada Adult Mental Health Services include a cemetery that was formerly a part of the Nevada Hospital for Mental Diseases. In 1949, the Legislature required the board of commissioners of the hospital to abolish the use of the cemetery. (Chapter 184, Statutes of Nevada 1949, p. 408) This bill designates the area of the former cemetery as a historic cemetery. This bill also requires the reinterment of human remains from gravesites found in a certain area outside the designated boundaries of the cemetery to the area inside the historic cemetery. This bill also provides for the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs, in cooperation with persons with an interest in the matter, to ~~maintain and improve~~ *oversee the maintenance and improvement of* the cemetery.

In 1959, a portion of the former cemetery was leased to the City of Sparks. This bill directs the State of Nevada to terminate the lease. Upon termination of the lease, the area covered by the lease will become a part of the cemetery.

Section 2 of this bill repeals the statute that abolished the use of the cemetery.

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

Section 1. 1. The following area, used before 1949 as a cemetery for the former Nevada Hospital for Mental Diseases, is hereby established as a historic cemetery, except as otherwise provided in this section:

All that certain real property situate within a portion of the Northeast One-Quarter (NE 1/4) of Section Seven (7), Township Nineteen (19) North, Range Twenty (20) East, Mount Diablo Meridian, City of Sparks, State of Nevada and being portions of the State Department of Agriculture parcel and the Northern Nevada Adult Mental Health System parcel as shown on the Record of Survey for the Northern Nevada Adult Mental Health System, Map No. 4663, File No. 3330918, Official Records of Washoe County, being more particularly described as follows:

Area 1

BEGINNING at the Northeasterly corner of said State Department of Agriculture parcel, also being a point on the Westerly right-of-way line of 21st Street as shown on said Record of Survey Map;  
THENCE along the Northerly line of said State Department of Agriculture parcel, North 81°36'00" West, 119.01 feet;  
THENCE along the Westerly line of the Pinion Park lease line as shown on said Record of Survey, South 16°46'00" West, 33.50 feet;  
THENCE continuing along said Westerly line, South 00°15'04" West, 257.47 feet to the Southwesterly corner thereof;  
THENCE North 88°28'00" East, 125.05 feet;  
THENCE North 0°45'00" East, 268.83 feet to the POINT OF BEGINNING;  
Said area being 35,159 square feet, 0.807 acres, more or less.

Area 2

COMMENCING at the Northeasterly corner of said State Department of Agriculture parcel, also being a point on the Westerly right-of-way line of 21st Street as shown on said Record of Survey Map; THENCE South 0°45'00" West, 268.83 feet to the POINT OF BEGINNING;  
THENCE continuing along the Westerly right-of-way line of 21st Street South 0°45'00" West, 361.77 feet;  
THENCE South 89°05'10" West, 114.54 feet;  
THENCE North 00°54'50" West, 360.26 feet;  
THENCE North 88°28'00" East, 125.05 feet to the POINT OF BEGINNING;  
Said area being 43,234 square feet, 0.992 acres, more or less.

2. Except as otherwise provided in this section, the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services, in cooperation with the State Public Works Board, the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs and any other persons with an interest in the matter, shall disinter certain human remains found in gravesites on the grounds of Northern Nevada Adult Mental Health Services that are outside of the area described in subsection 1 and reinter the remains within the area described in subsection 1. The remains to be relocated consist of a row of approximately 30 graves in an area east of the Dini-Townsend Hospital and

west of the State Department of Agriculture building on the grounds of Northern Nevada Adult Mental Health Services.

3. The Administrator of the Division of Mental Health and Developmental Services:

(a) Shall adopt regulations pursuant to NRS 451.069 to 451.330, inclusive, concerning the disinterment and removal of remains pursuant to subsection 2.

(b) Shall not reinter remains in the area described in subsection 1 as "area 1" until the leasehold interest of the City of Sparks is terminated pursuant to subsection 7.

(c) Shall, except as otherwise provided in subsection 6, comply with all federal and state laws concerning burial sites and disinterment and reinterment of human remains.

4. The cost of disinterment and reinterment of remains pursuant to this section must be paid to the extent of available money from Project No. 07-C20 of the State Public Works Board, as approved in paragraph (b) of subsection 3 of section 1 of chapter 347, Statutes of Nevada 2007, at page 1637. To the extent that money is available for this purpose, the State Public Works Board shall provide, in consultation with the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs and other persons with an interest in the matter, appropriate fencing and a memorial monument for the cemetery.

5. The Administrator of the Office of Historic Preservation of the Department of Cultural Affairs shall, in consultation with persons with an interest in the matter and to the extent of available money, ~~[provide for]~~ oversee the maintenance and improvement of the historic cemetery established pursuant to this section, ~~[and may accept gifts and grants to offset the costs of the maintenance and improvement.]~~

6. The provisions of NRS 451.045 do not apply to the disinterment of remains required by subsection 2. The provisions of NRS 452.001 to 452.610, inclusive, do not apply to the historic cemetery established by this section.

7. The area designated in subsection 1 as "area 1" is the portion of the historic cemetery leased to the City of Sparks by a lease dated September 10, 1959, and is subject to that lease until it is terminated by the State of Nevada. The State of Nevada shall give an appropriate 180-day written notice of termination as provided in the lease and shall terminate the lease. Upon termination of the lease, that area becomes a part of the historic cemetery established by this section.

Sec. 2. Section 1 of chapter 184, Statutes of Nevada 1949, at page 408, is hereby repealed.

#### TEXT OF REPEALED SECTION

Section 1 of chapter 184, Statutes of Nevada 1949:

SECTION 1. Notwithstanding any other provision of law, it is hereby made the specific duty of the board of commissioners of the Nevada hospital for mental diseases to abolish the use of any

cemeteries now located on the hospital grounds. It is further made the specific duty of said board to provide a decent burial for any inmate or patient who dies while such an inmate, at any cemetery without the hospital grounds, and in so doing, the said board of commissioners is authorized to enter into a contract with any person or persons, including governmental agencies or instrumentalities, as it deems proper, for such a decent burial, or it may provide for any sort of an arrangement under the operating head of the hospital. The cost of such burial, where there are known relatives, shall be borne by such relatives, and where there are no known relatives, the cost of such burial shall be a charge against the State of Nevada, but the cost thereof shall not exceed the amount charged for the burial of indigents in the county in which the burial takes place. When any person who is an inmate of said hospital dies while such inmate, any known relatives or friends of such person shall be notified immediately of the fact of death, and in the event there is no known relative or friend of such inmate, notice shall be given by publication for one insertion in a newspaper to be chosen by said board of commissioners for such purpose. The board of commissioners is specifically charged with the duty of giving such notification and may delegate such duty to the superintendent.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This amendment removes the requirement that the State Office of Historic Preservation maintain and improve the historic cemetery and, instead, provides that the Office oversee the cemetery's maintenance and improvement.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 317.

Bill read second time.

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

Amendment No. 142.

"SUMMARY—Requires instruction on financial literacy in the public high schools. (BDR 34-1109)"

"AN ACT relating to education; requiring ~~for a pupil to satisfactorily complete~~ *the Department of Education to ensure that* instruction in financial literacy ~~as a condition to the receipt of a high school diploma;~~ *is provided to pupils enrolled in public high schools and certain charter schools;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the academic subjects, standards and courses of study for the public schools in this State. (Chapter 389 of NRS) This bill

requires the Department of Education to ensure that instruction in financial literacy is provided to pupils enrolled in the public high schools in each school district and in each charter school that operates as a high school. ~~[A pupil must demonstrate satisfactory completion of the instruction by passage of an examination before he may receive a diploma.]~~

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Department shall ensure that instruction in financial literacy is provided to pupils enrolled in the public high schools within each school district and in each charter school that includes pupils enrolled at the high school grade levels. The instruction must include, without limitation:*

(a) *The skills necessary to develop financial responsibility, including, without limitation:*

(1) *Making reasonable financial decisions by analyzing the alternatives and consequences of those financial decisions;*

(2) *Locating and evaluating financial information from various sources;*

(3) *Developing communication strategies to discuss financial issues;*

(4) *Controlling personal information; and*

(5) *Reviewing and summarizing federal and state consumer protection laws.*

(b) *The skills necessary to manage finances, including, without limitation:*

(1) *Developing a plan for spending and saving;*

(2) *Developing a system for keeping and using financial records; and*

(3) *Developing a personal financial plan.*

(c) *The skills necessary to understand the use of credit and the incurrence of debt, including, without limitation:*

(1) *Identifying the costs and benefits of various types of credit;*

(2) *Explaining the purpose of a credit report, including, without limitation, the manner in which a credit report is used by lenders;*

(3) *Describing the rights of a borrower regarding his credit report;*

(4) *Identifying methods to avoid and resolve debt problems; and*

(5) *Reviewing and summarizing federal and state consumer credit protection laws.*

(d) *The skills necessary to understand the basic principles of saving and investing, including, without limitation:*

(1) *Understanding how saving and investing contribute to financial well-being;*

(2) *Understanding the methods of investing and alternatives to investing;*

(3) *Understanding how to buy and sell investments; and*

(4) *Understanding how the regulation of financial institutions protects investors.*

2. *The instruction required by subsection 1 may be included within a course or program of instruction that pupils enrolled in high school are otherwise required to complete for graduation.*

~~3. In addition to satisfying the requirements of NRS 389.805 and all other requirements for graduation from high school, a pupil must demonstrate satisfactory completion of the instruction in financial responsibility by passage of an examination before he may receive a diploma.~~

Sec. 2. This act becomes effective on July 1, 2009.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

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

Amendment No. 142 revises the following provisions to Senate Bill No. 317. The amendment removes the requirement for a student to pass an examination concerning financial literacy in order to graduate from high school.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 334.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 105.

"SUMMARY—Eliminates the formation of new corporations sole. (BDR 7-1004)"

"AN ACT relating to corporations sole; providing for the elimination of the formation of new corporations sole; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a corporation sole may be formed for acquiring, holding or disposing of church or religious society property, for the benefit of religion, for works of charity and for public worship. Existing law provides the procedures for forming a corporation sole, the powers of a corporation sole and the process of default, reinstatement or revocation of a charter of a corporation sole. (Chapter 84 of NRS)

This bill provides that no corporation sole may be formed on or after ~~July 1, 2009,~~ the effective date of this bill, and no corporation sole which had its charter revoked may be reinstated on or after ~~July 1, 2009,~~ the effective date of this bill. However, this bill does not affect the existence of a corporation sole formed before ~~July 1, 2009,~~ the effective date of this bill.

Section ~~4~~ 5 of this bill repeals provisions related to the formation, articles of incorporation and procedure for reinstatement of a corporation sole. (NRS 84.006, 84.010, 84.020, 84.030 and 84.150)

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

Section 1. Chapter 84 of NRS is hereby amended by adding thereto a new section to read as follows:

*No new corporation sole may be formed in this State on or after ~~July 1, 2009,~~ the effective date of this act. A corporation sole formed pursuant to this chapter before ~~July 1, 2009,~~ the effective date of this act may continue in existence until the corporation is dissolved or its charter is revoked. A corporation sole that has its charter revoked pursuant to NRS 84.140 may not be reinstated.*

*Sec. 2. NRS 84.002 is hereby amended to read as follows:*

84.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 84.003 ~~to 84.006, inclusive,~~ 84.0035 and 84.004 have the meanings ascribed to them in those sections.

~~Sec. 2.]~~ *Sec. 3. NRS 84.015 is hereby amended to read as follows:*

84.015 1. The fee for filing ~~articles of incorporation,~~ amendments to or restatements of articles of incorporation and records for dissolution is \$50 for each record.

2. Except as otherwise provided in this chapter, the fees set forth in NRS 78.785 apply to this chapter.

~~Sec. 3.]~~ *Sec. 4. NRS 84.110 is hereby amended to read as follows:*

84.110 1. Every corporation sole must have a registered agent in the manner provided in NRS 78.090 and 78.097. The registered agent shall comply with the provisions of those sections.

2. A corporation sole is subject to the provisions of NRS 78.150 ~~to 78.185, inclusive,~~ except that:

(a) The fee for filing a list is \$25; *and*

(b) The penalty added for default is \$50. ~~;~~ *and*

~~(c) The fee for reinstatement is \$100.]~~

~~Sec. 4.]~~ *Sec. 5. NRS 84.006, 84.010, 84.020, 84.030 and 84.150 are hereby repealed.*

~~Sec. 5.]~~ *Sec. 6. This act becomes effective ~~on July 1, 2009,~~ upon passage and approval.*

#### LEADLINES OF REPEALED SECTIONS

84.006 "Street address" defined.

84.010 Purpose.

84.020 Articles of incorporation: Authority to make and file.

84.030 Articles of incorporation: Required provisions.

84.150 Defaulting corporations: Conditions and procedure for reinstatement.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment makes the bill effective upon passage and approval as opposed to July 1, 2009.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 375.

Bill read second time.

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

Amendment No. 150.

"SUMMARY—Establishes the Nevada Advisory Commission on Intergovernmental Relations. (BDR 19-1160)"

"AN ACT relating to intergovernmental relations; creating the Nevada Advisory Commission on Intergovernmental Relations; providing for the membership, terms of such membership, certain procedural rules, compensation of members, and duties and powers of the Commission; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill creates the Nevada Advisory Commission on Intergovernmental Relations, which is comprised of 15 members: three Senators, two appointed by the Senate Majority Leader and one by the Senate Minority Leader; three members of the Assembly, two appointed by the Speaker of the Assembly and one by the Minority Leader of the Assembly; three county commissioners appointed by the Nevada Association of Counties; three elected officials from local governments that are not counties appointed by the Nevada League of Cities and Municipalities; and three ~~directors~~ employees or authorized representatives of state agencies appointed by the Governor. The purpose of the Commission is to foster communication and cooperation among the State Government and local governments. The Commission is charged with serving as a forum for discussion among governments, engaging in activities and conducting studies on issues relating to state and local governments, and reporting to the Legislature. The Commission may recommend legislation to the Legislature.

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

Section 1. Title 19 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act:*

1. *"Agency" has the meaning ascribed to it in NRS 233B.031.*

2. *"Commission" means the Nevada Advisory Commission on Intergovernmental Relations created by section 3 of this act.*

3. *"Local government" has the meaning ascribed to it in NRS 354.474.*

Sec. 3. *The Nevada Advisory Commission on Intergovernmental Relations is hereby created.*

Sec. 4. *The purpose of the Commission is to foster effective communication, cooperation and partnerships among the State Government*

and local governments in order to improve the provision of governmental services to the people of this State.

Sec. 5. 1. The Commission consists of the following 15 members:

(a) Three members who are Senators, two of whom are appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate;

(b) Three members who are Assemblymen, two of whom are appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly;

(c) Three members, each of whom is a member of a board of county commissioners from a different county, appointed by the Executive Director of the Nevada Association of Counties;

(d) Three members, each of whom is an elected officer from a different local government that is not a county, appointed by the Executive Director of the Nevada League of Cities and Municipalities; and

(e) Three members, each of whom is ~~the director of~~ an employee or authorized representative of a different agency, appointed by the Governor.

2. Except for the initial members, the term of office of each member of the Commission is 2 years and commences on July 1 of the year of appointment.

3. A vacancy on the Commission must be filled by appointment for the unexpired term in the same manner as the original appointment.

4. At the first regular meeting after July 1 of each year:

(a) The members of the Commission appointed pursuant to the provisions of paragraphs (a) and (b) of subsection 1 shall elect from among those members and by majority vote a Chairman of the Commission; and

(b) The members of the Commission appointed pursuant to the provisions of paragraphs (c) and (d) of subsection 1 shall elect from among those members and by majority vote a Vice Chairman of the Commission.

5. The Chairman and Vice Chairman shall serve until the next Chairman and Vice Chairman, respectively, are elected. If a vacancy occurs in the chairmanship, the vacancy must be filled in the same manner as the original election.

Sec. 6. 1. The Commission shall meet at least once every 3 months and at additional times as deemed necessary by the Chairman.

2. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

Sec. 7. 1. For each day or portion of a day during which a member of the Commission who is a Legislator attends a meeting of the Commission or is otherwise engaged in the work of the Commission, except during a regular or special session of the Legislature, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session;

*(b) Per diem allowance provided for state officers and employees generally; and*

*(c) Travel expenses provided pursuant to NRS 218.2207.*

*2. A member of the Commission who is not a Legislator is entitled to receive the per diem allowance and travel expenses pursuant to NRS 218.2207 provided for state officers and employees generally for each day or portion of a day during which he attends a meeting of the Commission or is otherwise engaged in the business of the Commission.*

*Sec. 8. The Director of the Legislative Counsel Bureau shall provide the Commission with administrative support.*

*Sec. 9. 1. The Commission shall:*

*(a) Serve as a forum for the discussion and resolution of intergovernmental problems among the State Government and local governments;*

*(b) Engage in activities and conduct studies relating to, without limitation:*

*(1) The structure of local governments;*

*(2) The functions and powers, including, without limitation, fiscal powers, of local governments;*

*(3) Relationships among the State Government and local governments;*

*(4) The allocation of state and local resources; and*

*(5) Any appropriate legislation to be recommended to the Legislature; and*

*(c) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report concerning its activities and findings during the previous year.*

*2. The Commission may recommend to the Legislature, as a result of any reviews or studies it has conducted, any appropriate legislation.*

*Sec. 10. As soon as practicable after July 1, 2009:*

*1. The Senate Majority Leader shall appoint two members of the Senate to the Nevada Advisory Commission on Intergovernmental Relations pursuant to paragraph (a) of subsection 1 of section 5 of this act to terms that expire on June 30, 2011;*

*2. The Senate Minority Leader shall appoint one member of the Senate to the Commission pursuant to paragraph (a) of subsection 1 of section 5 of this act to a term that expires on June 30, 2011;*

*3. The Speaker of the Assembly shall appoint two members of the Assembly to the Commission pursuant to paragraph (b) of subsection 1 of section 5 of this act to terms that expire on June 30, 2011;*

*4. The Minority Leader of the Assembly shall appoint one member of the Assembly to the Commission pursuant to paragraph (b) of subsection 1 of section 5 of this act to a term that expires on June 30, 2011;*

5. The Executive Director of the Nevada Association of Counties shall appoint three members of boards of county commissioners, each from a different county, to the Commission pursuant to paragraph (c) of subsection 1 of section 5 of this act to terms that expire on June 30, 2011;

6. The Executive Director of the Nevada League of Cities and Municipalities shall appoint three elected officers, each from a different local government that is not a county, to the Commission pursuant to paragraph (d) of subsection 1 of section 5 of this act to terms that expire on June 30, 2011; and

7. The Governor shall appoint three ~~directors of~~ employees or authorized representatives of different agencies to the Commission pursuant to paragraph (e) of subsection 1 of section 5 of this act to terms that expire on June 30, 2011.

Sec. 11. This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

This amendment provides that the Governor's agency appointments to the Nevada Advisory Commission on Intergovernmental Relations may be employees or authorized representatives of the agencies rather than limit the appointments to agency directors.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 19.

Bill read third time.

Roll call on Senate Bill No. 19:

YEAS—21.

NAYS—None.

Senate Bill No. 19 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 35.

Bill read third time.

Remarks by Senators McGinness and Care.

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

SENATOR MCGINNESS:

I think this is probably one of the most important bills we will see this week. I voted against this bill in committee. This bill will remove the double-jeopardy clause and will allow for dual sovereignty. Dual sovereignty is all right if you are from the prosecution side, but if you are on the defendant side, you call it double jeopardy. Article 1, Section 8, of *the Nevada Constitution* says, "no person shall be subject to be twice put in jeopardy for the same offense." If you pass this bill, that is exactly what will happen.

SENATOR CARE:

Thank you, Mr. President. What this does is allow Nevada to recognize the Dual Sovereignty Doctrine. The example is Terry Nichols who assisted Timothy McVey and was found guilty after a federal trial. The State of Oklahoma has threatened to try him for murder and never has. The option is there if they want to do that. That is what this bill would do for the State of Nevada. We had the amendment that was adopted yesterday; that said if you are acquitted of the same conduct in another jurisdiction and tried for that conduct in this jurisdiction, you are allowed to have that admitted as evidence.

Roll call on Senate Bill No. 35:

YEAS—18.

NAYS—Mathews, McGinness, Parks—3.

Senate Bill No. 35 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 36.

Bill read third time.

Roll call on Senate Bill No. 36:

YEAS—21.

NAYS—None.

Senate Bill No. 36 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 45.

Bill read third time.

Roll call on Senate Bill No. 45:

YEAS—21.

NAYS—None.

Senate Bill No. 45 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 49.

Bill read third time.

Remarks by Senators Townsend and Carlton.

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

SENATOR TOWNSEND:

Thank you, Mr. President. I do not understand the need for this bill, nor do I understand what the problem is and why it is drafted this way.

SENATOR CARLTON:

Thank you, Mr. President. The committee shared the previous speaker's concerns in the hearing. What was brought to us was the need that people did not understand that without a written contract, if something happened at the end of the deal, they would have nothing to substantiate what the agreement was about. The Board of Architecture and Interior Design and Residential Design brought this bill to address the issue of those contracts. We amended it in that they would agree whether to have a contract or not.

Senator Carlton moved that Senate Bill No. 49 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senate Bill No. 54.

Bill read third time.

Roll call on Senate Bill No. 54:

YEAS—21.

NAYS—None.

Senate Bill No. 54 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 55.

Bill read third time.

Roll call on Senate Bill No. 55:

YEAS—21.

NAYS—None.

Senate Bill No. 55 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 68.

Bill read third time.

Remarks by Senators Nolan and Schneider.

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

SENATOR NOLAN:

Thank you, Mr. President. I would like to ask the sponsor of the bill about the definition of the term "security wall."

The language on page 2 of the bill discusses it as being the perimeter of a residential subdivision with respect to which a final map has been recorded. It requires the homeowners' association to be responsible for the repair and maintenance of that wall.

My question is if this definition would supersede any county or city zoning language with regard to what the perimeter of a subdivision is. Many of those walls are the back walls of private residences' homes. If a car crashes into the back of the wall, as I read this bill, the homeowners' association would be responsible for the repair of that wall as opposed to the individual's homeowner's insurance. Is that correct?

SENATOR SCHNEIDER:

I think it is covered under the homeowners' association's insurance. They are the owners of the wall and are responsible for the perimeter wall around the whole development. Some of these homeowners' associations were trying to make the cities and counties responsible for those walls. They tried to say they were not responsible for them. In some cases, they had sued and were awarded damages under construction defect for those walls, and they are still trying to say the walls are the responsibility of the cities. Those walls would be covered by the homeowners' association's insurance policy.

Roll call on Senate Bill No. 68:

YEAS—20.

NAYS—Nolan.

Senate Bill No. 68 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 84.

Bill read third time.

Roll call on Senate Bill No. 84:

YEAS—21.

NAYS—None.

Senate Bill No. 84 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 101.

Bill read third time.

Roll call on Senate Bill No. 101:

YEAS—21.

NAYS—None.

Senate Bill No. 101 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 106.

Bill read third time.

Roll call on Senate Bill No. 106:

YEAS—21.

NAYS—None.

Senate Bill No. 106 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 111.

Bill read third time.

Roll call on Senate Bill No. 111:

YEAS—21.

NAYS—None.

Senate Bill No. 111 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 114.

Bill read third time.

Roll call on Senate Bill No. 114:

YEAS—21.

NAYS—None.

Senate Bill No. 114 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS  
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolution No. 22; Assembly Concurrent Resolutions Nos. 21, 22, 23, 24, 25, 26.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Cegavske, the privilege of the floor of the Senate Chamber for this day was extended to Kirsten Swenson and Adam Cegavske.

On request of Senator Horsford, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Sonya Horsford, Sandra Douglass Morgan and Juliana Jordan.

On request of Senator Lee, the privilege of the floor of the Senate Chamber for this day was extended to Crystalline Lueck and Dave Lueck.

On request of Senator Nolan, the privilege of the floor of the Senate Chamber for this day was extended to Gregory C. Ross.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to the following students from Reno High School: Gina Bradley, Roger Carlson, Eric Dickensheets, William Dunn, Molly Gill, Arieal Jenkins, Griffin Kirsch, Christian Lees, Erik McCallister, Kylie Miller, Hannah Profit, Victoria Rae, Lexus Rogers, Juan Saldana, Bonnie Sullivan, Anthony Tran, Aaron Walsh, Ashley Ward, Olivia Alonso, Kendra Amidon, Chase Barnard, Sophia Bayless, Andrew Biasi, Anthony Banaldi, Richard Brizendine, Bonnie Brooksbank, Morgan Caverhill, Joan Chang, Kaitlyn Cole, Hina Gandher, Kylie Fortier, Erica Greif, Diana Jia, Michael Lin Brande, Matthew Linaman, Allana Noyes, Kelly O'Connell, Robert Ruelas, Gwendolyn Seeman, Zachary Speth, Ruby Sukhraj, Megan Tabano, Mauricio Urias, Marquise Van Tassel, Brent Welsh, Alexander Wilson, Jennifer Yates, Jamie Harris, Brian Alderman, Mitchell Benning, Paul Brizendine, Taylor Bruce, John Caverhill, Tianjiao Cheng, Ryan Chien, John Cooper, Amaro Dasilva, Samuel Elvick, Mallory Fisher, Courney Gill, Whitney Ginsburg, Joseph Hoel, David Jamieson, Elliot Kooontz, Nicole Lovass-Nagy, Charles McArthur, William Monroe, Catriona Moody, Jacob Parker, Shelby Parkinson, Cameron Piette, Samantha Puzey, Haley Quirk, Daniel Schuveiller, Brandi Van Ry, Shawn Walters, Michael Weiss, Grayson Wilt, Ethan Witt, Joseph Albright, Samuel Broadhead,

Justice Colby, Ramiro Corral, Theresa Gabrielli, Dustin Gallo, David Graves, Alyssa Grew, Sterling Hall, Esther Hayes, Sarah Hettinger, Olivia Hu, Clinton Kolseth, Austin Koontz, Cheryl Lee, John Muir, Courtney Mutchler, Lauren Parobek, Maxwell Pullman, Kimberly Scheible, Claire Schneider, Kayla Sheridan, Erica Stoddard, Dylan Szewczak, Philip Tissier, Ariana Stobaugh, Danielle Ballard, Alyssa Bland, Ariana Cramer, Jeremy Freeman, Heather Hagan, Wesley Hansen, Joseph Hemenway, Johanna Josephson, Brianna Kelley, Aaron Laden, Wesley Munson, Kieran Murphy, Alexander Papadakos, Jorge Rubio, Drew Sheehy, Chase Taficanti, Tarra Budge, Marisol Arredondo, Nathan Barnard, Dorina Ceka, Trevoe Christensen, Samuel Dworkin, Meng Jiang, Josh Lundin, Christian Manning, Kate Manning, Smantha Montiel, Andrianna Moore, Gavin Meyers, Robin Pellicciarani, James Pierce, Justin Rashidi, Zachary Roubo, Gracian Sallaberry, Arielle Shapiro, Jessica Thai, Tatjana Thomas, Rebecca Thompson, Justin Warren, Alexander Weiske, Britni Whitehead and Michelle Laxalt.

On request of Senator Schneider, the privilege of the floor of the Senate Chamber for this day was extended to Carrie Peery.

On request of Senator Wiener, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Lavern Tarkington, Ida Gaines and Barbara McCants-Hill.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to Dr. Sandra Mack and Hannah Brown.

Senator Horsford moved that the Senate adjourn until Wednesday, April 8, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 12:34 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

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