

**THE SEVENTY-FIFTH DAY**

---

CARSON CITY (Friday), April 17, 2009

Senate called to order at 11:21 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Monte Fast.

The gift of time, granted by our Creator, is given without guarantee.

We measure it by the turning of minute and hour hands on machines called clocks. They help us keep moving in the same directions at the same moments in time. Without these machines, our lives would be chaotic.

There is a clock standing tall on the entrance walk to his Legislature. High ideals are inscribed on that clock, ideals to which we all aspire.

Gazing across this chamber, I am reminded of great Nevadans for whom time came to its inevitable end. Their memories shine from the halls of this building. They were true to those high ideals. Service above self. We miss them.

Now, in this time that is ours, let us purpose to fulfill the high ideals for which they proudly stood.

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 Commerce and Labor, to which were referred Senate Bills Nos. 6, 89, 355, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

*Mr. President:*

Your Committee on Energy, Infrastructure and Transportation, to which were referred Senate Bills Nos. 309, 332, 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 Government Affairs, to which was referred Senate Bill No. 245, 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 was referred Senate Bill No. 318, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and rerefer to the Committee on Finance.

VALERIE WIENER, *Chair*

## JOURNAL OF THE SENATE

## MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 16, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 47, 117, 209, 259, 265, 305, 314, 319, 338, 353, 369, 377, 384, 428, 475, 481, 499, 503, 512.

DIANE M. KEETCH

*Assistant Chief Clerk of the Assembly*

## WAIVERS AND EXEMPTIONS

## NOTICE OF EXEMPTION

April 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 57.

GARY GHIGGERI

*Fiscal Analysis Division*

April 17, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 234.

GARY GHIGGERI

*Fiscal Analysis Division*

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Carlton moved that Senate Bill No. 127 be taken from the Secretary's desk and placed on the Second Reading File on the second agenda.

Motion carried.

Senator Carlton moved that Senate Bill No. 396 be taken from the Secretary's desk and placed on the bottom of the Second Reading File on the second agenda.

Motion carried.

Senator Care moved to place bill introductions after General File is completed.

Motion carried.

Senator Care moved that Senate Bills Nos. 57, 182, 242, be rereferred to the Committee on Finance.

Motion carried.

Senator Care moved that Senate Bill No. 292 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Care moved that Senate Bill No. 353 be taken from the Secretary's desk and placed at the top of the General File.

Motion carried.

Senator Care moved that Senate Bill No. 259 be taken from the General File and placed on the Secretary's desk.

Motion carried on a division of the house.

Senator Nolan moved that Senate Bill No. 251 be taken from the Secretary's desk and placed on the bottom of the General File on the second agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 353.

Bill read third time.

Roll call on Senate Bill No. 353:

YEAS—19.

NAYS—Carlton, Mathews—2.

Senate Bill No. 353 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 73.

Bill read third time.

Roll call on Senate Bill No. 73:

YEAS—21.

NAYS—None.

Senate Bill No. 73 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 132.

Bill read third time.

Roll call on Senate Bill No. 132:

YEAS—20.

NAYS—Mathews.

Senate Bill No. 132 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 137.

Bill read third time.

Roll call on Senate Bill No. 137:

YEAS—21.

NAYS—None.

Senate Bill No. 137 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 183.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 183 contains the entirety of a vetoed bill from the previous session. We removed a couple of controversial provisions and we have since voted on them in this House. During the past seven sessions, the Legislature has sought to protect the rights of Nevadans to safely and securely enjoy their property. The Legislature needs to continue to protect these cherished basic rights because there are still abuses in homeowner's associations. Some of these abuses are isolated incidents, but we should enact this law because every time there is some miscarriage of justice, no matter how small, these incidences affect peoples most precious and valuable possession, their home. Considering our lack of time today, I submit these other remarks for the record.

As the Legislature noted in the preamble to S.B. No. 192 in 1999, Common-Interest Communities, usually called homeowner associations (HOAs) are the form of government closest to the people.

They have all the hallmarks of the three branches of government, legislative, executive and judicial; they have the power to legislate, to tax, to convene quasi-judicial hearings and to punish.

When administrative agencies in the states and the federal government were first instituted, they were largely ignored because they tended to be small and limited in the scope of their powers and operations. Over time, these entities grew to be so large, so pervasive, and so powerful that they have come to be termed the "fourth branch of government."

In a 1916 address, Elihu Root, former Secretary of War, Secretary of State, United States Senator, and winner of the Nobel Peace Prize, a man renowned as one of the most brilliant administrators in American history, sounded a warning about administrative agencies. He stated: "The powers that are committed to these regulating agencies and which they must have to do their work carry with them great and dangerous opportunities for oppression and wrong. If we are to continue a government of limited powers these agencies of regulation must themselves be regulated. The limits of their power over the citizen must be fixed and determined. The rights of the citizen against them must be made plain."

I suggest to you, my colleagues, that HOAs are rapidly becoming a fifth branch of government and that the warning Elihu Root sounded nearly 100 years ago about administrative agencies, which have indeed grown to become the fourth branch of government, must be heeded in regard to this new branch.

Like the fourth branch, this new fifth branch has started out small and almost unnoticed. Many people do not even recognize that HOAs are governments. One of the members of the Commission for Common-Interest Communities, and the public representative at that, argued in a committee meeting last Session that HOAs are not governments; that they are mere contractual arrangements between consenting parties.

However, as more and more of these HOAs are formed, often at the insistence of local governments, their authority over the citizens of Nevada increases. It is difficult to escape their ubiquitous influence, as one of our former colleagues noted during that same committee hearing last Session. We need to recognize that we are indeed dealing with a form of government. The legislature has created these entities and should carefully supervise them and hold them accountable, just as we have learned we must do with administrative agencies.

As also noted in the SB 192 preamble, ALL forms of government should observe the basic principles of democracy found in the United States Constitution and the Nevada Constitution. However, the preamble notes that some HOAs have a history of abuse of power. That is the language of the preamble itself, not my language.

The preamble declares that homeowners have the right to live in a community without fear of illegal, unfair, or unnecessary interference with their rights.

As already noted, some people will argue that HOAs are matters of contract and that if buyers do not want to abide by the CC&Rs, they ought to live somewhere else. But as a matter of fact, many Nevada cities and counties require a developer to form an HOA as a condition of granting necessary building permits so people often do not really have a choice whether to live in an HOA or not. We have built as many as 40,000 new homes a year at times in Nevada, most of those in HOAs. So the number of citizens these governments impact grows each year. According

to the Real Estate Division, there were 2,952 HOA's in Nevada as of December 2008 containing 469,406 residential units.

In reality, these contract provisions requiring homeowners to join an HOA are "contracts of adhesion." The Nevada Supreme Court has said the following about such contracts:

An adhesion contract has been defined as a standardized contract form offered to consumers of goods and services essentially on a "take it or leave it" basis, without affording the consumer a realistic opportunity to bargain, and under such conditions that the consumer cannot obtain the desired product or service except by acquiescing to the form of the contract. The distinctive feature of an adhesion contract is that the weaker party has no choice as to its terms.

The framers of the Uniform Act on which Nevada Revised Statutes Chapter 116 is based must have recognized this potential for abuse since they specifically included a provision designed to address this aspect of HOAs. NRS 116.1112 states:

NRS 116.1112 Unconscionable agreement or term of contract.

1. The court, upon finding as a matter of law that a contract or clause of a contract was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or limit the application of any unconscionable clause to avoid an unconscionable result.

2. Whenever it is claimed, or appears to the court, that a contract or any clause of a contract is or may be unconscionable, the parties, to aid the court in making the determination, must be afforded a reasonable opportunity to present evidence as to:

- (a) The commercial setting of the negotiations; and
- (b) The effect and purpose of the contract or clause.

(Added to NRS by 1991, 541)

More to the point however, contract rights, as important as they are, should not take precedence over the right of people to live without fear in their homes, free from illegal, unfair or arbitrary actions by the government closest to them. Our constitutional documents place human rights above property rights.

Over the past seven sessions, the Legislature has sought to protect the right of Nevadans to be safe and secure in the enjoyment of these human rights. The Legislature needs to continue to protect these cherished basic rights because there are still abuses of power in some HOAs, as the preamble declares.

While some may assert that these are isolated incidents and we should not enact new laws every time there is some small miscarriage of justice, these incidents affect peoples' most precious and valuable possession, their home, the sanctuary for them and their families. As the Legislature noted in the 1999 preamble, homeowners invest financially and emotionally in their homes and HOAs have power over one of the most important aspects of a person's life, namely, their residence. Nothing that affects the sanctity of our homes is too insignificant to protect when it is under attack from an abuse of governmental power, no matter how small that government or how infrequently the attack comes.

Some of these attacks are on rights of free speech, due process and the right to petition for redress from the government of the HOA.

So the question is, shall the citizens of Nevada be left at the mercy of these governments which have been created and sanctioned by the state, or will the constitutional rights of life, liberty and the pursuit of happiness be safeguarded to Nevada citizens?

Roll call on Senate Bill No. 183:

YEAS—21.

NAYS—None.

Senate Bill No. 183 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 186.

Bill read third time.

Roll call on Senate Bill No. 186:

YEAS—21.

NAYS—None.

Senate Bill No. 186 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 229.

Bill read third time.

Roll call on Senate Bill No. 229:

YEAS—21.

NAYS—None.

Senate Bill No. 229 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 239.

Bill read third time.

Roll call on Senate Bill No. 239:

YEAS—21.

NAYS—None.

Senate Bill No. 239 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 261.

Bill read third time.

Roll call on Senate Bill No. 261:

YEAS—21.

NAYS—None.

Senate Bill No. 261 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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 11:39 a.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 278.

Bill read third time.

Roll call on Senate Bill No. 278:

YEAS—21.

NAYS—None.

Senate Bill No. 278 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 290.

Bill read third time.

Roll call on Senate Bill No. 290:

YEAS—21.

NAYS—None.

Senate Bill No. 290 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 305.

Bill read third time.

Roll call on Senate Bill No. 305:

YEAS—21.

NAYS—None.

Senate Bill No. 305 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 312.

Bill read third time.

Roll call on Senate Bill No. 312:

YEAS—21.

NAYS—None.

Senate Bill No. 312 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 338.

Bill read third time.

Conflict of interest declared by Senator Care.

Roll call on Senate Bill No. 338:

YEAS—20.

NAYS—None.

NOT VOTING—Care.

Senate Bill No. 338 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 340.

Bill read third time.

Roll call on Senate Bill No. 340:

YEAS—21.

NAYS—None.

Senate Bill No. 340 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 343.

Bill read third time.

Roll call on Senate Bill No. 343:

YEAS—21.

NAYS—None.

Senate Bill No. 343 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 372.

Bill read third time.

Conflict of interest declared by Senator Raggio.

Senator Cegavske disclosed that her husband is the General Manager for Crawford Coin. Crawford Coin operates convenience stores and is a licensed slot route operator. This bill does not affect my husband's employer anymore than any other convenience store or slot route operator, it does involve a private economic interest for me and therefore to avoid an appearance of impropriety, I will be abstaining on this bill.

Remarks by Senators Lee and Amodei.

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

SENATOR LEE:

As many of you know, "I've been to God's waiting room." While hooked up to a chemo dispenser I have witnessed a wife holding the hands of her husband quietly praying for him as his lips are quivering, I have bowed my head and finished their prayer with them.

I have pleaded with my doctor to please reduce the number of radiation treatments that I had left; scared about the damage my body was taking and questioning if I could really endure this treatment. I actually believed that the radiation was killing me.

I did not have cancer from cigarettes but second hand smoke causes cancer to unsuspecting victims.

We know cigarettes and second-hand smoke is dangerous and takes a negative toll on our bodies. The tobacco industry is paying dearly for its transgressions through the Millennium Scholarship Program.

Notwithstanding the pain that we went through and others have gone through, the Legislature is responsible for this issue. The Legislature did not have the fortitude to fight this issue in our Chambers. The casinos and their lobbyists set a tone of fear that this would destroy our tourism business and legislators fearing the power of the industry might not receive future support in their campaigns if they suggested this legislation.

The voters of Nevada took it upon themselves to do this public service. The people voted to protect themselves from future health harms. We owe it to our constituents to uphold their decision.



I believe the proper way to change this law is to have the Tavern Industry put this back to an initiative process and make their position known; maybe it will be presented better this time. Let the voters decide on their desire for a change.

Smokers already cannot smoke on airplanes, busses, taxis, buildings, restaurants; they understand this and can do without much problem. I think that playing the slots is not that difficult without a cigarette.

Let us uphold the health and will of the voters and the people of the State of Nevada.

SENATOR AMODEI:

I agree with everything my colleague from District 1 said. I think the voters spoke loud and clear on this issue. They said they did not want children exposed to this and they did not want people exposed to second-hand smoke. I defy you to look at the amendment that was done by the Committee on Judiciary on a 6-1 vote to find something in there that says we have ignored the will of the voters and we want to expose children to second-hand smoke and we want to expose other people to second-hand smoke. The facts are a funny thing. This provision as amended, not the original bill, puts up to a \$2000 civil fine in for those who expose people to second-hand smoke and for those who want to expose minors to that. This provision clears up a couple of administrative matters that are in the courts right now.

I am not picking on those who did the initiative because, like us, sometimes when they pass legislation it needs tune-up, it needs revisiting, there are ambiguities in it that we did not think of. The same hold true for the initiative process. The maintenance work that we have done in the administrative areas of this does not expose anyone to second-hand smoke and it does not expose children to smoke in any form at all. If anyone leaves this room thinking that the words that are in the first reprint of Senate Bill No. 372 are an indication that somehow that committee or if the majority of the people in this House who vote for this measure have ignored the will of the voters, I suggest they read the bill. When you read what is actually done in the bill, more importantly when you read what was not done that was originally proposed in Senate Bill No. 372, I submit that Senate Bill No. 372 as amended completely takes into account the will of the voters in that matter and has done some appropriate maintenance on the issue, and has also made those areas where someone may be able to engage in that habit, ones where they can do so knowingly without people under the age of 21 there and not have anything forced on them against their will.

I understand people feel both ways, an actual reading of Senate Bill No. 372 does nothing that some people would have you think it does. Facts are a funny thing and the facts of Senate Bill No. 372 are deferential to the will of the voters.

Roll call on Senate Bill No. 372:

YEAS—14.

NAYS—Breden, Lee, Mathews, Wiener, Woodhouse—5.

NOT VOTING—Cegavske, Raggio—2.

Senate Bill No. 372 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 376.

Bill read third time.

Remarks by Senators Hardy and Raggio.

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

SENATOR HARDY:

Mr. President, Pursuant to my disclosure yesterday on the amendment to Senate Bill No. 376, I need to make the same disclosure today. Although members of my association did not testify or lobby on this bill, it is my understanding that representatives of the Sierra Nevada Chapter of ABC did lobby on this bill.

Although they are not a part of my Association, we are chartered by the same national organization.

Although Rule No. 23 does not require me to abstain since Senate Bill No. 376 does not impact my members anymore than others. I will nevertheless abstain in order to avoid any appearance of impropriety.

SENATOR RAGGIO:

I voted against this measure in committee for several reasons. The committee would not consider the amendments that were proposed the Associated General Contractors, which I thought, were important and necessary. As a result, the bill that is before us as amended does a couple of things that now puts into statute matters that have long been in regulation. That is not the important part. Because of the failure to amend the bill as requested by several, including the Associated General Contractors, there are new items that are required to be considered and the result of which will increase the cost of the prevailing wage. That is important in these days when the economic situation is such as it is.

On projects that are funded by taxpayers the cost will increase due to the additional factors now required such as over-time pay and shift differential pay. They are added as components that are required to be considered in determining what the prevailing wage is. The problem is this bill faces a potential veto. We are doing a disservice if we pass the bill in its present form. I will be voting no.

Roll call on Senate Bill No. 376:

YEAS—10.

NAYS—Amodei, Cegavske, Coffin, Mathews, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—10.

NOT VOTING—Hardy.

Senate Bill No. 376 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 377.

Bill read third time.

Roll call on Senate Bill No. 377:

YEAS—21.

NAYS—None.

Senate Bill No. 377 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 383.

Bill read third time.

Roll call on Senate Bill No. 383:

YEAS—21.

NAYS—None.

Senate Bill No. 383 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 169.

Bill read third time.

Roll call on Assembly Bill No. 169:

YEAS—21.

NAYS—None.

Assembly Bill No. 169 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 172.

Bill read third time.

Roll call on Assembly Bill No. 172:

YEAS—21.

NAYS—None.

Assembly Bill No. 172 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 182.

Bill read third time.

Roll call on Assembly Bill No. 182:

YEAS—21.

NAYS—None.

Assembly Bill No. 182 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly introductions be taken from the first agenda and placed on the second agenda.

Motion carried.

Senator Coffin gave notice that on the next legislative day he would move to reconsider the vote whereby Senate Bill No. 376 was this day passed.

The Sergeant at Arms announced that Assemblymen Kihuen and Goicoechea were at the bar of the Senate. Assemblyman Kihuen invited the Senate to meet in Joint Session with the Assembly to hear Representative Dean Heller.

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

Senate in recess at 12:01 p.m.

#### IN JOINT SESSION

At 12:09 p.m.

President Krolicki presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President appointed a Committee on Escort consisting of Senator Rhoads and Assemblyman Munford to wait upon the honorable Representative Dean Heller and escort him to the Assembly Chamber.

Representative Heller delivered his message as follows.

MESSAGE TO THE LEGISLATURE OF NEVADA  
SEVENTY-FIFTH SESSION, 2009

Madam Speaker, thank you very much. It is great to be home. I have already seen Senator Townsend look at his watch so I know I am limited here in the amount of my time. It is a Friday afternoon, and a lot of you have places to go, so I will try to meet those expectations. Thank you very much for having me here today. Mr. President, thank you, and thank you also for your friendship and the opportunity to spend some time here. I walked from the Assembly over to the Senate and lowered the average ages, I think, of both houses by doing that. It was great to spend some time in the State Senate. Senator Raggio, of course, it is good to see you. Leader Horsford, it is always a pleasure. Leader Oceguera and, of course, Leader Gansert, thank you very much for the opportunity to be here. I want to thank the Chief Justice for being here, also. I appreciate you spending a few minutes of your time to be with me. I want to thank, of course, Kim Wallin, our State Controller, for being here; also, the representatives from the other constitutional offices for being here. Of course, there are two names here that I want to make sure that I do acknowledge, two people that came in here into this house with me back in 1991. I was telling someone recently that if I were still here, I would be term-limited out after this session. Of course, those people are Warren Hardy and Bernie Anderson, two people that I came in here with, and it has been an honor and a privilege to serve with them over the years.

I want to, of course, thank my wife for being here. I want to thank my mother for being here. I still believe I am the only member of Congress whose mom still cuts his hair. I want to thank her for dragging my father out for this event. There is an empty lot across the street from this building. That empty lot used to be my fathers' engine and transmission shop. He taught me a lot of principles that I adhere to today. It is a thrill to have him with me today.

It is an honor and a privilege to serve in the second Congressional District. My district is 105,000 square miles. I try to explain that to Easterners. I told one representative from Illinois, "Consider driving from Washington, D.C., all the way to Chicago, and then a couple of hours after that. That is how much time it would take you to drive across my congressional district." For Clark County and all the other 16 counties, it really is an honor and great privilege to be able to serve them. For this reason, natural resource issues continue to be my priority. There are many rural Legislators in here that know how important mining, public land management, and preventing wildfires are in northern Nevada. Recently, I found myself testifying in front of the Natural Resource Committee. In fact, I was with the chairwoman of the Elko County Commission, talking against the destructive mining reform that they are now discussing. This year I was named the policy chair of the Western Caucus. This is a group of nearly 40 members of Congress who are primary defenders of balanced public land access, private property rights, and responsible natural resource developments in the U.S. House of Representatives. I believe this leadership position in this caucus allows me to be a stronger advocate for Nevada.

Now, when I was first elected to Congress, I was given some sage advice. I was told not to expect to get on an exclusive committee. I was told I would not pass any legislation, nor would I be able to achieve any amendments on the House floor. Simply put, I was told to not expect to get anything done. However, in my freshman year, in the minority, I was able to pass four pieces of legislation, more legislation than any of our House delegation. I amended the mining reform legislation on the House floor and was appointed to the Financial Services Committee, which is an exclusive committee. Now, starting my second term, I have been appointed to the most influential committee in Congress, the House Ways and Means Committee. This committee deals with issues such as taxes, energy, health care, and trade, all issues that I believe are very important for Nevada and all of which directly affect Nevadans. Every day I go to work to

advocate for our great State and let Nevadans know that there is someone in Washington, D.C. who is on their side.

Now, when I am in Washington, D.C., whether I am sitting in committee or I am on the House floor, I evaluate each piece of legislation with the "more, higher, less" test. The "more, higher, less" test is: Does it provide more competition, higher quality, at less cost? If that piece of legislation passes out of committee and it meets that test, I vote for it. If there's a piece of legislation out there that doesn't meet the "more, higher, less" test, I vote against it. This is the true test that motivates entrepreneurs. The "more, higher, less" test is the true test that motivates small businesses. I believe it should be the test that motivates government. I want to give you an example of this approach, in school choice. The District of Columbia has a program in place to provide scholarships to students in underperforming schools so that they can attend schools with proven academic success. This program shows that students learn more, they perform at a higher level, and it costs the taxpayers less. Washington, D.C. spends approximately \$14,000 per pupil. Under the school choice program, the cost per pupil is \$7,500. Again, the students learn more, they perform at a higher level, and it costs the taxpayers less—more, higher, less.

Unfortunately, this successful program has been targeted to end by Democratic leadership. Instead of empowering parents to do what is right for their own children, the power is returned back to government bureaucrats. In this same vein, the recently passed budget includes what is called a cap and trade system on carbon emissions that will levy \$646 billion in new taxes. In some estimates, the Congressional Budget Office estimates it as high as \$3 trillion. This new scheme is nothing more than a sales tax on energy that will affect every working American in our country, because it taxes every form of energy we depend upon. The basic goal of this program is to make energy so expensive it influences consumers' behavior, to curb consumption. According to the EPA, electricity costs will rise between 44 and 79 percent under this system. It will potentially cost every Nevadan an estimated \$850 or, for a family of four, nearly \$3,400 in higher energy costs every year. Every time you turn on a light, buy a loaf of bread, or pick up your children from school, you will be paying higher taxes.

High energy prices not only hurt economic growth but they also cause inflation and have a negative effect on consumer spending. Our economy cannot afford this program. Instead of penalizing people for using energy and companies that produce energy, Congress should encourage innovation, pursue the development of alternative energy, and explore our own natural resources until we can bridge the gap that takes this country off of its dependence of foreign sources of energy.

It is no secret that Nevada is rich in renewable energy potential. We have an abundance of geothermal, solar, and wind energy. In Congress, I have voted in favor of a national renewable portfolio standard similar to the one already instituted here in Nevada. I am currently drafting solar energy legislation to help promote the development of solar energy on public lands. This legislation will direct the Secretary of the Interior to identify public lands best suited for solar energy and draft environmental assessments. The legislation applies an integrated royalty schedule to make the development of solar energy plants more cost efficient. I expect to introduce this legislation shortly after Congress comes back into session. Bringing renewable energy to Nevada will create more jobs, a higher quality of life, and keep energy prices low. It is legislation that meets the "more, higher, less" test.

If "more, higher, less" was applied to the recently passed stimulus bill, Nevada and our Nation would be better off today. I was disappointed by the partisanship leading up to that vote. Some in this room even announced support for the legislation before it was drafted. There was not a single person who did not believe that action was needed but the final product was a raw deal for Nevadans and the American taxpayers. Nevada was at the bottom of the list for assistance, even though we lead the Nation in foreclosures and have more than 10 percent unemployment. The American public ended up with a \$1.1 trillion spending bill that dedicated very little to infrastructure, while nearly \$100 billion was spent to create 33 new government agencies. It greased the path for hundreds of millions of dollars in AIG bonuses, a company that received more than \$170 billion in bailout money. A real opportunity to help Nevadans and the American people was squandered. With the promises of higher taxes, more spending, and bigger deficits, this Congress has committed to saddling our children and grandchildren with a record debt. As many of you know, I have four children and many of you have four children. In fact, I

know Leader Gansert has four children. Based upon legislation that has passed just in the last four months, her four children and my four children will collectively owe the federal government more than \$240,000 as their portion of the national debt. As the only member of the Nevada delegation to vote against the Wall Street bailout, I take my responsibility as a steward of the taxpayer's dollar very seriously and fight for saner fiscal policies in Congress. The goal should be to leave our children with a better quality of life than we have.

A tracking of stimulus money shows that a hastened bill that no one read did not have the necessary quality controls to safeguard taxpayer dollars. More than \$500,000 in stimulus money has been dedicated to build a skateboard park; there is \$3 million to increase the number of bike racks in Washington, D.C. and nearly \$600,000 to the establishment of a homeless program in a town that does not have a homeless problem. When HUD was asked why they distributed the money, they said, "We hope it encouraged these new grantees to develop creative strategies for the funding." What HUD is saying is we should create a homeless problem so we can accept more government bailouts.

These are but a few examples of the many across our nation. I voted against the stimulus because it did not pass the "more, higher, less" test.

Let me end by saying that I know these are tough economic times. I assure you that Speaker Buckley's job today is more difficult than Speaker Pelosi's, for no other reason than Nevada is required to balance its budget. In Washington, D.C., we print money, borrow from foreign countries, or we simply add it to the debt. No balanced budget is required. For this reason, your decisions are tough. I have full faith and confidence in this body as a whole. It is more important than ever that we work together, find common ground, and make the right decisions that will put Nevada back on its feet and put Nevadans back to work. If we can succeed together, Nevada's best days are yet to come.

Thank you very much and thank you for the opportunity to come here, to be home and spend some time with you. Thank you.

Senator Care moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Heller for his timely, able and constructive message.

Motion carried.

The Committee on Escort escorted Representative Heller to the bar of the Assembly.

Senator Washington moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 12:27 p.m.

#### SENATE IN SESSION

At 12:37 p.m.

President Krolicki presiding.

Quorum present.

#### INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 414—AN ACT relating to the Department of Information Technology; eliminating the Planning and Research Unit within the Planning and Programming Division of the Department; changing the name of the Planning and Programming Division to the Programming Division; requiring the Director of the Department to assume the duties of the Unit to develop

certain policies, standards, guidelines and procedures regarding information systems; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 47.

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

Motion carried.

Assembly Bill No. 117.

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

Motion carried.

Assembly Bill No. 209.

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

Motion carried.

Assembly Bill No. 259.

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

Motion carried.

Assembly Bill No. 265.

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

Motion carried.

Assembly Bill No. 305.

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

Motion carried.

Assembly Bill No. 314.

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

Motion carried.

Assembly Bill No. 319.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 338.

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

Motion carried.

Assembly Bill No. 353.

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

Motion carried.

Assembly Bill No. 369.

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

Motion carried.

Assembly Bill No. 377.

Senator Care moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 384.

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

Motion carried.

Assembly Bill No. 428.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 475.

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

Motion carried.

Assembly Bill No. 481.

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

Motion carried.

Assembly Bill No. 499.

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

Motion carried.

Assembly Bill No. 503.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure & Transportation.

Motion carried.



Assembly Bill No. 512.

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

Motion carried.

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

Motion carried.

Senate in recess at 12:39 p.m.

#### SENATE IN SESSION

At 12:44

President Krolicki presiding.

Quorum present.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 251.

Bill read third time.

The following amendment was proposed by Senator Nolan:

Amendment No. 501.

"SUMMARY—Revises certain provisions governing vehicles. (BDR 43-1115)"

"AN ACT relating to vehicles; specifying ~~the~~ certain circumstances under which a tow car can display flashing amber warning lights; ~~authorizing the operator of a tow car to equip the tow car with a system or device that causes the upper beam head lamps of the tow car to continue to flash alternately under certain circumstances;~~ requiring the driver of a vehicle to take certain actions when he approaches a tow car which is stopped and making use of flashing amber warning lights; specifying the circumstances under which a vehicle operated by a licensed private patrolman or his employee may display flashing amber warning lights; providing fees for certain permits; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the operator of a tow car to equip the tow car with flashing amber warning lights pursuant to a permit issued by the Nevada Highway Patrol. (NRS 484.579) Section 1.5 of this bill authorizes the use of flashing amber warning lights on a tow car when the tow car is ~~[(1) approaching the immediate scene of a traffic hazard on a highway or on premises to which the public has access; or (2)]~~ stopped upon or adjacent to the highway at the scene of a traffic hazard. ~~In addition, section 1.5 authorizes the use of a system or device that causes the upper beam head lamps of the tow car to continue to flash alternately while the system or device is activated. Section 1.5 also provides that the driver of a tow car that is equipped with such a system or device may use the system or device only~~

~~when approaching the immediate scene of a traffic hazard on a highway or on premises to which the public has access.]~~

Section 3 of this bill requires a driver, upon approaching a tow car which is stopped and is making use of flashing amber warning lights to: (1) decrease the speed of his vehicle; (2) proceed with caution; (3) be prepared to stop; and (4) if possible, drive in a lane that is not adjacent to the lane in which the tow car is stopped. (NRS 484.364)

Section 4 of this bill authorizes a tow car operator who during daylight attends to a motor vehicle disabled on the highway to place a red flare, red lantern, warning light or reflector in close proximity to each warning sign which the operator is required to place upon the highway in the vicinity of the disabled motor vehicle. (NRS 484.499)

Sections 2.5 and 5 of this bill authorize the Nevada Highway Patrol to issue a permit authorizing the display of flashing amber warning lights on a vehicle operated by a licensed private patrolman or his employee when the private patrolman or his employee who operates the vehicle is engaged in the business for which the private patrolman is licensed and the vehicle is: (1) on private property which the private patrolman is authorized to protect; (2) on a public road and stopped adjacent to private property which the private patrolman is authorized to protect; or (3) on a public road and moving at a speed slower than the normal flow of traffic. Section 5 requires the Nevada Highway Patrol to charge and collect certain fees for the issuance of permits to display flashing amber warning lights on a vehicle, including a vehicle operated by a licensed private patrolman or his employee. (NRS 484.579)

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 and 2.5 of this act.

Sec. 1.5. 1. *A tow car which is equipped with flashing amber warning lights pursuant to NRS 484.579 may display flashing amber warning lights to the front, sides or rear of the tow car when ~~f~~*

~~(a) Approaching the immediate scene of a traffic hazard on a highway or on premises to which the public has access; or~~

~~(b) Stopped]~~ *stopped upon or adjacent to the highway at the scene of a traffic hazard.*

2. ~~[A tow car which is equipped with flashing amber warning lights pursuant to NRS 484.579 may be equipped with a system or device that causes the upper-beam head lamps of the tow car to continue to flash alternately while the system or device is activated. The driver of a tow car that is equipped with such a system or device may use the system or device only when approaching the immediate scene of a traffic hazard on a highway or on premises to which the public has access.~~

~~3.]~~ *Any flashing amber warning light ~~f, system or device equipped]~~ used pursuant to this section must comply with the standards approved by the Department.*

~~f 4. As used in this section, "upper beam head lamp" means a head lamp or that part of a head lamp which projects a distribution of light or composite beam meeting the requirements of subsection 1 of NRS 484.587.]~~

Sec. 2. (Deleted by amendment.)

Sec. 2.5. A vehicle which is operated by a private patrolman licensed pursuant to chapter 648 of NRS or his employee and which is equipped with flashing amber warning lights pursuant to NRS 484.579 may display flashing amber warning lights to the front, sides or rear of the vehicle when:

1. The private patrolman or his employee who operates the vehicle is engaged in the business for which the private patrolman is licensed; and

2. The vehicle is:

(a) On private property which the private patrolman is authorized to protect;

(b) On a public road and stopped adjacent to private property which the private patrolman is authorized to protect; or

(c) On a public road and moving at a speed slower than the normal flow of traffic.

Sec. 3. NRS 484.364 is hereby amended to read as follows:

484.364 1. Upon approaching an authorized emergency vehicle which is stopped and is making use of flashing lights meeting the requirements of subsection 3 of NRS 484.787 ~~or~~ or a tow car which is stopped and is making use of flashing amber warning lights meeting the requirements of section 1.5 of this act, the driver of the approaching vehicle shall, in the absence of other direction given by a peace officer:

(a) Decrease the speed of his vehicle to a speed that is:

(1) Reasonable and proper, pursuant to the criteria set forth in subsection 1 of NRS 484.361; and

(2) Less than the posted speed limit, if a speed limit has been posted;

(b) Proceed with caution;

(c) Be prepared to stop; and

(d) If possible, drive in a lane that is not adjacent to the lane in which the emergency vehicle *or tow car* is stopped, unless roadway, traffic, weather or other conditions make doing so unsafe or impossible.

2. A person who violates subsection 1 is guilty of a misdemeanor.

Sec. 4. NRS 484.499 is hereby amended to read as follows:

484.499 Where a motor vehicle is disabled on the highway, ~~during darkness,~~ the tow car operator shall immediately upon arrival place warning signs upon the highway as prescribed in NRS 484.497 and :

1. *During darkness,* shall place not less than one red flare, red lantern, warning light or reflector in close proximity to each warning sign.

2. *During daylight,* may place a red flare, red lantern, warning light or reflector in close proximity to each warning sign.

Sec. 5. NRS 484.579 is hereby amended to read as follows:

484.579 1. It is unlawful to operate or display a flashing amber warning light on a vehicle except when an unusual traffic hazard exists or as

authorized in NRS 484.582 ~~to~~ *or section 1.5 or 2.5 of this act*. This subsection does not prohibit the use of amber lights in electric signals for making turns.

2. It is unlawful for any person to mount flashing amber warning lights permanently on a vehicle without a permit from the Nevada Highway Patrol.

3. The Nevada Highway Patrol, upon written application, shall issue a permit to mount a flashing amber light on:

- (a) Vehicles of public utilities.
- (b) ~~Trucks for towing vehicles.~~ *Tow cars.*
- (c) Vehicles engaged in activities which create a public hazard upon the streets or highways.
- (d) Vehicles of coroners and their deputies.
- (e) Vehicles of Civil Air Patrol rescue units.
- (f) Vehicles of authorized sheriffs' jeep squadrons.
- (g) Vehicles which escort funeral processions.
- (h) Vehicles operated by vendors of food or beverages, as provided in NRS 484.582.

*(i) Vehicles operated by private patrolmen licensed pursuant to chapter 648 of NRS or their employees.*

4. Those permits expire on June 30 of each calendar year.

5. The Nevada Highway Patrol shall charge and collect the following fees for the issuance of a permit for the mounting of a flashing amber light:

- (a) Permit for a single vehicle..... \$2
- (b) Blanket permit for more than 5 but less than 15 vehicles ..... 12
- (c) Blanket permit for 15 vehicles or more ..... 24

6. Subsections 1 and 2 do not apply to an agency of any state or political subdivision thereof, or to an agency of the Federal Government.

7. All fees collected by the Nevada Highway Patrol pursuant to this section must be deposited with the State Treasurer for credit to the State Highway Fund.

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

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

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

Thank you, Mr. President. Earlier in the week, there were some concerns primarily by the Senate Majority Leader with the bill. The amendment addresses his concerns about the ability of tow-truck operators to operate their vehicles while their lights were flashing in a fashion that might be a traffic hazard. The amendment that was drafted was an attempt to address his concerns and those of others in this body. As the amendment is written, the tow-truck operators would not be able to drive for long distances using their lights. As the amendment came out there may be a technical problem with that, but it is not something that should hold up the bill and is something we can address with the Assembly.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

## SECOND READING AND AMENDMENT

Senate Bill No. 6.

Bill read second time.

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

Amendment No. 113.

"SUMMARY—Revises provisions regarding occupational diseases of volunteer firefighters. (BDR 53-46)"

"AN ACT relating to occupational diseases; revising certain provisions concerning heart disease as an occupational disease of volunteer firefighters; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, under certain circumstances, heart disease of a volunteer firefighter constitutes an occupational disease for purposes of chapter 617 of NRS. (NRS 617.457) Section ~~HH~~ 2 of this bill removes the requirement that the heart disease must have occurred before the volunteer firefighter reached 55 years of age. Section ~~HH~~ 2 also revises the frequency with which the volunteer firefighter must submit to a physical examination to detect such heart disease ~~HH~~ and makes the benefits of NRS 617.457 contingent upon the volunteer firefighter's submission to the physical examinations scheduled by his employer. Finally, section 2 provides that a volunteer firefighter applicant 50 years of age or older may be responsible for payment of the costs of his physical examinations but will be reimbursed for those costs if he becomes a volunteer firefighter.

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

*Section 1. NRS 617.454 is hereby amended to read as follows:*

617.454 1. Any physical examination administered pursuant to NRS 617.455 or 617.457 must include:

- (a) A thorough test of the functioning of the hearing of the employee; and
- (b) A purified protein derivative skin test to screen for exposure to tuberculosis.

2. ~~The~~ Except as otherwise provided in subsection 7 of NRS 617.457, the tests required by this section must be paid for by the employer.

~~Section 1.~~ *Sec. 2. NRS 617.457 is hereby amended to read as follows:*

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 5 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment.

2. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this

chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State ~~and who has not reached the age of 55 years before the onset of the disease.~~ by continuously maintaining an active status on the roster of a volunteer fire department.

3. Except as otherwise provided in subsection 4, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his employment.

4. A physical examination ~~is not required~~ for a volunteer firefighter ~~more than~~ is required upon initial employment and once every 3 years after ~~an~~ the initial examination ~~until the firefighter reaches the age of 50 years.~~ Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once each year.

5. The employer of the volunteer firefighter is responsible for scheduling the physical examination.

6. Failure to submit to a physical examination that is scheduled by his employer pursuant to subsection 5 excludes the volunteer firefighter from the benefits of this section.

7. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and

(b) Is 50 years of age or older on the date of his application.

8. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection 7;

(b) Is declared physically fit to perform the duties required of a firefighter; and

(c) Becomes a volunteer with the volunteer fire department.

~~5. All~~ 9. Except as otherwise provided in subsection 7, all physical examinations required pursuant to ~~subsection~~ subsections 3 and 4 must be paid for by the employer.

~~6.~~ 10. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to the annual examination excludes the employee from the benefits of this section if the correction is within the ability of the employee.

~~7.~~ 11. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter or police officer,

↪ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

~~§ 12.~~ 12. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

~~Sec. 2.]~~ *Sec. 3.* This act becomes effective on July 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Amendment No. 113 to Senate Bill No. 6 makes certain benefits for occupational diseases of volunteer firefighters contingent upon submission to a physical examination scheduled by the employer. An examination must be paid for by the employee under certain circumstances, but the employee may be reimbursed. Under this amendment, the employee is required to maintain an active status as a volunteer in order to qualify.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 89.

Bill read second time.

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

Amendment No. 100.

"SUMMARY—Makes various changes to the provisions governing manufactured housing. (BDR 43-427)"

"AN ACT relating to manufactured housing; providing for the licensure of distributors of ~~new~~ manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing for resale; providing for the regulation of dealers, manufacturers, salesmen, general servicemen and specialty servicemen with respect to manufactured buildings and factory-built housing; ~~imposing certain requirements on escrows involving transactions relating to manufactured housing;~~ authorizing the auditing of the financial accounts of dealers and distributors; requiring the adoption of regulations concerning continuing education requirements for dealers and distributors; revising the procedure for determining the fair market value ~~and cost of moving~~ of manufactured homes ~~from manufactured home parks~~ under certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2, 29-32 and 37-40 of this bill provide for the licensure of distributors of ~~new~~ manufactured homes, mobile homes, manufactured

buildings, commercial coaches or factory-built housing by the Manufactured Housing Division of the Department of Business and Industry.

~~Sections 11 and 60 of this bill impose requirements on escrows involving transactions relating to manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing.~~

Section 12 of this bill authorizes the Division to audit the financial accounts of a dealer or distributor of manufactured housing to investigate insolvency or to administer or enforce any law.

Sections 16-23, 35, 36 and 55-57 of this bill provide for the regulation of dealers, manufacturers, salesmen, general servicemen and specialty servicemen with respect to manufactured buildings and factory-built housing.

Section 28 of this bill requires the Division to adopt regulations concerning continuing education requirements for dealers and distributors.

Sections 41-43 of this bill expand the grounds for disciplinary actions against persons licensed by the Division.

Section 46 of this bill requires the Division to adopt regulations establishing a fee for the issuance of a license as a distributor. Section 47 of this bill requires a distributor to pay an additional fee upon the issuance or renewal of his license. This additional fee is currently imposed on dealers and manufacturers and is required to be deposited in the Account for Education and Recovery Relating to Manufactured Housing in the Fund for Manufactured Housing and to be used to satisfy the claims of purchasers of manufactured housing against licensees for fraud, misrepresentation or deceit.

Sections 59-62 of this bill revise provisions governing the financial and fiduciary duties of dealers ~~and distributors.~~

Sections 63, 75 and 82 of this bill provide limitations on actions against the Division and its officers and employees.

Section 70 of this bill provides that a dealer ~~for distributor~~ is guilty of a gross misdemeanor if: (1) he fails to cooperate or comply with or knowingly impedes or interferes with an investigation or audit conducted by the Division; or (2) he acts as a dealer ~~for distributor~~ while insolvent or engages in any financial practice which creates a substantial risk of insolvency.

Sections 78-81 of this bill revise the procedure for determining the fair market value ~~and cost of moving~~ of manufactured homes ~~from manufactured home parks~~ under certain circumstances.

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

Section 1. Chapter 489 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *"Distributor" means any person who ~~sells, leases or distributes~~ ~~new~~ engages in the sale and distribution of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing for resale.*



Sec. 3. ~~["Escrow" has the meaning ascribed to it in NRS 645A.010.]~~  
~~(Deleted by amendment.)~~

Sec. 4. ~~["Escrow agency" has the meaning ascribed to it in NRS 645A.010.]~~ ~~(Deleted by amendment.)~~

Sec. 5. ~~["Escrow agent" has the meaning ascribed to it in NRS 645A.010.]~~ ~~(Deleted by amendment.)~~

Sec. 6. "Factory-built housing" has the meaning ascribed to it in NRS 461.080.

Sec. 7. "Franchise" means a written agreement between a franchisor and franchisee which establishes that the franchisee will sell or distribute new or used manufactured homes, mobile homes, manufactured buildings, commercial coaches, factory-built housing or related goods or services under, or operate using, the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor.

Sec. 8. "Franchisee" means any natural person or entity that, pursuant to a franchise, sells or distributes new or used manufactured homes, mobile homes, manufactured buildings, commercial coaches, factory-built housing or related goods or services under, or operates using, the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor.

Sec. 9. "Franchisor" means any natural person or entity that owns the overall rights to the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor and grants a franchise for their use by a franchisee.

Sec. 10. "Manufactured building" has the meaning ascribed to it in NRS 461.132.

Sec. 10.5. "Modular component" has the meaning ascribed to it in NRS 461.145.

Sec. 11. ~~[I. In any escrow involving the sale, transfer, encumbering or leasing of any manufactured home, mobile home, manufactured building, commercial coach or factory built housing, or the land on which it is situated:~~

~~(a) All money deposited in the escrow to be delivered upon the close of the escrow or upon any other contingency must be kept separate from money belonging to the escrow agent or escrow agency and must be deposited in a financial institution that is federally insured or insured by a private insurer approved pursuant to NRS 678.755, unless another financial institution has been designated in writing in the instructions for the escrow. The money, when deposited, must be designated as a "trust fund" or "escrow account" or by some other name indicating that the money is not the money of the escrow agent or escrow agency.~~

~~(b) The holder of the escrow shall, on the date of establishment of the escrow, record in writing the name, or the number and date of expiration of the license issued pursuant to this chapter, of any dealer, distributor or salesman who will be paid compensation from money held in the escrow for~~

~~performing the services of a dealer, distributor or salesman in the transaction that is the subject of the escrow. The holder of the escrow is not required to verify independently the validity of the number of the license.~~

~~(c) If the escrow involves the sale of real property that is or will be secured by a mortgage or deed of trust, the holder of the escrow shall, on the date of establishment of the escrow, record in writing the number and date of expiration of the license issued pursuant to chapter 645B or 645E of NRS of any mortgage broker or mortgage banker associated with the mortgage or deed of trust. The holder of the escrow is not required to verify independently the validity of the number of the license.~~

~~2. As used in this section:~~

~~(a) "Mortgage banker" has the meaning ascribed to it in NRS 645E.100.~~

~~(b) "Mortgage broker" has the meaning ascribed to it in NRS 645B.0127.]~~

~~(Deleted by amendment.)~~

Sec. 12. 1. The Division may investigate and audit any financial account, including, without limitation, any trust account, related to the business of a dealer or distributor if:

(a) The Division has reasonable cause to believe that the dealer or distributor is using or has used the account to carry on the business of the dealer or distributor; and

(b) The Division:

(1) Has reasonable cause to believe or has received a credible complaint that the dealer or distributor is insolvent or is in a financial condition, or has engaged in a financial practice, which creates a substantial risk of insolvency; or

(2) Determines that the investigation and audit are reasonably necessary to assist the Division in administering or enforcing any provision of law.

2. The Administrator shall adopt regulations prescribing the scope of an audit conducted pursuant to this section.

3. As used in this section, "insolvency" or "insolvent" means a condition under which a dealer or distributor is unable to meet the liabilities of his business as they become due in the regular course of business and which creates a substantial risk of harm to the public or a consumer.

Sec. 13. As used in this section and NRS 489.4971 to 489.4989, inclusive, "Account" means the Account for Education and Recovery Relating to Manufactured Housing created by NRS 489.4971.

Sec. 14. NRS 489.021 is hereby amended to read as follows:

489.021 1. The Legislature finds that the construction, assembly and use of manufactured homes, mobile homes, travel trailers [and] , manufactured buildings, commercial coaches and factory-built housing and their systems, components and appliances, and the alteration, transportation and installation of manufactured homes, mobile homes [and] , manufactured buildings, commercial coaches [and] and factory-built housing, like other products having concealed vital parts, may present hazards to the health, life

and safety of persons and the safety of property unless they are properly manufactured, altered, transported and installed.

2. In the sale of manufactured homes, mobile homes, travel trailers ~~and~~ , *manufactured buildings*, commercial coaches ~~and~~ *factory-built housing*, there is also the possibility of unascertained defects in them even though they are inspected by purchasers.

3. It is the policy and purpose of this State to protect the public against these hazards and to prohibit the manufacture, sale, *distribution*, alteration, transportation and installation in this State of manufactured homes, mobile homes, travel trailers ~~and~~ , *manufactured buildings*, commercial coaches *and factory-built housing* which are not constructed in a manner which provides reasonable safety and protection to owners and users.

4. The Legislature further intends to provide a procedure to ~~assure~~ *ensure* that this State assumes the fullest responsibility for the administration and enforcement of federal safety and construction standards for manufactured homes in Nevada in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 , ~~42 U.S.C. §§ 5401 et seq.~~

Sec. 15. NRS 489.031 is hereby amended to read as follows:

489.031 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 489.036 to 489.155, inclusive, *and sections 2 to ~~10.7~~ 10.5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 489.043 is hereby amended to read as follows:

489.043 "Brokerage agreement" means a contract between a dealer and a client in which the dealer agrees to accept compensation to:

1. Assist, solicit or negotiate the sale or exchange of an interest in a manufactured home, mobile home , *manufactured building* or commercial coach ~~and~~ *or factory-built housing*; or

2. Induce any person to buy or exchange an interest in a manufactured home, mobile home , *manufactured building* or commercial coach ~~and~~ *or factory-built housing*.

Sec. 17. NRS 489.076 is hereby amended to read as follows:

489.076 1. "Dealer" means any person who:

(a) For compensation, money or any other thing of value, sells, exchanges, buys or offers for sale, negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* subject to the requirements of this chapter, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobile home , *manufactured building* or commercial coach ~~and~~ *or factory-built housing*;

(b) For compensation, money or any other thing of value, leases or rents, offers for lease or rental, negotiates or attempts to negotiate the lease or rental of an interest in a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* subject to the

requirements of this chapter, or induces or attempts to induce any person to lease or rent an interest in a manufactured home, mobile home , *manufactured building* or commercial coach ~~or~~ *or factory-built housing*;

(c) Receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from either the seller or purchaser of any manufactured home, mobile home ~~or~~ , *manufactured building*, commercial coach ~~or~~ *or factory-built housing*;

(d) Is engaged wholly or in part in the business of:

(1) Selling, renting or leasing manufactured homes, mobile homes ~~or~~ , *manufactured buildings*, commercial coaches ~~or~~ *or factory-built housing*;

(2) Buying or taking manufactured homes, mobile homes ~~or~~ , *manufactured buildings*, commercial coaches *or factory-built housing* in trade for the purpose of resale, selling ~~or~~ or offering them for sale or consignment to be sold;

(3) Buying or taking manufactured homes, mobile homes ~~or~~ , *manufactured buildings*, commercial coaches *or factory-built housing* in trade to rent, lease or offer them for rent or lease; or

(4) Otherwise dealing in manufactured homes, mobile homes ~~or~~ , *manufactured buildings*, commercial coaches ~~or~~ *or factory-built housing*; or

(e) Acts as a reposessor or liquidator concerning manufactured homes, mobile homes ~~or~~ , *manufactured buildings*, commercial coaches ~~or~~ *or factory-built housing*,

↳ whether or not they are owned by such persons.

2. The term does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the order of any court;

(b) Public officers while performing their official duties;

(c) Banks, savings and loan associations, credit unions, thrift companies or other financial institutions proceeding as reposseors or liquidators of their own security;

(d) A person who rents or leases his manufactured home, mobile home ~~or~~ , *manufactured building*, commercial coach ~~or~~ *or factory-built housing*;

(e) An owner selling his private residence; or

(f) A real estate broker, real estate broker-salesman or real estate salesman who is licensed pursuant to chapter 645 of NRS and who, for another and for compensation or with the intention or expectation of receiving compensation, sells, exchanges, options, purchases, rents or leases, or negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of, or lists or solicits prospective purchasers, lessees or renters of, used manufactured homes or used mobile homes in connection with the sale of a fee simple interest in real property and the used manufactured home or used mobile home is situated on the real property sold.

Sec. 18. NRS 489.102 is hereby amended to read as follows:

489.102 1. "General serviceman" means a person who owns or is the responsible managing employee of a business which:

(a) Installs or repairs the awnings, roofing, skirting, plumbing, heating or electrical systems of a manufactured home, mobile home , *manufactured building* or commercial coach ~~{ }~~ *or factory-built housing*;

(b) Installs ~~{ }~~ *or* removes ~~{or tears down}~~ a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* at the site where it will be or has been used for occupancy; or

(c) Reconstructs a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* by the alteration, addition or substitution of substantial or essential parts.

2. The term does not include:

(a) A licensed manufacturer engaged in the repair or service of a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* that was manufactured by the licensed manufacturer;

(b) The owner or purchaser of a manufactured home , ~~{or}~~ mobile home *or manufactured building or factory-built housing* who uses the manufactured home , ~~{or}~~ mobile home *or manufactured building or factory-built housing* as his private residence; or

(c) The owner or purchaser of a commercial coach who uses the commercial coach for his own industrial, professional or commercial purposes.

Sec. 19. NRS 489.115 is hereby amended to read as follows:

489.115 "Manufacturer" means every person , *including, without limitation, a partnership, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company, or a corporation*, engaged in the business of manufacturing manufactured homes, mobile homes, travel trailers ~~{or}~~ , *manufactured buildings*, commercial coaches ~~{ }~~ *or factory-built housing*.

Sec. 20. NRS 489.125 is hereby amended to read as follows:

489.125 "New manufactured home," "new mobile home," "new travel trailer" ~~{or}~~ , "new *manufactured building*," "new commercial coach" *or "new factory-built housing"* means a manufactured home, mobile home, travel trailer , *manufactured building* or commercial coach ~~{ }~~ *or factory-built housing*, respectively, which has never been sold at retail or occupied either ~~prior to~~ *before* or after sale for the purpose intended by the manufacturer and has never been registered with or been the subject of a certificate of title issued by the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or *any* foreign state, province or country.

Sec. 21. NRS 489.137 is hereby amended to read as follows:

489.137 "Salesman" means any person employed by a dealer *or distributor* under any form of contract or arrangement to sell, *distribute*, rent, lease, exchange or buy, or offer for sale, *distribution*, rental, lease or exchange, an interest in a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* to any person, and

who receives or expects to receive a commission, fee or any other consideration from his employer.

Sec. 22. NRS 489.147 is hereby amended to read as follows:

489.147 1. "Specialty serviceman" means a person who owns or is the *designated* responsible managing employee of a business which is limited in the scope of the work it may perform on or in a manufactured home, mobile home, *manufactured building, modular component* or commercial coach *or factory-built housing* in accordance with NRS 489.325.

2. The term does not include:

(a) A licensed manufacturer engaged in the repair or service of a manufactured home, mobile home, *manufactured building* or commercial coach *or factory-built housing* that was manufactured by the licensed manufacturer;

(b) The owner or purchaser of a manufactured home, ~~or~~ mobile home *or manufactured building or factory-built housing* who uses the manufactured home, ~~or~~ mobile home *or manufactured building or factory-built housing* as his private residence; or

(c) The owner or purchaser of a commercial coach who uses the commercial coach for his own industrial, professional or commercial purposes.

Sec. 23. NRS 489.155 is hereby amended to read as follows:

489.155 "Used manufactured home," "used mobile home," "used travel trailer" ~~or~~, *"used manufactured building," "used commercial coach" or "used factory-built housing"* means a manufactured home, mobile home, travel trailer, *manufactured building* or commercial coach ~~or~~ *factory-built housing*, respectively, which has been:

1. Sold, rented or leased and occupied ~~prior to~~ *before* or after the sale, rental or lease; or

2. Registered with or been the subject of a certificate of title issued by the appropriate agency of authority of any other state, the District of Columbia, or any territory or possession of the United States or *any* foreign state, province or country.

Sec. 24. NRS 489.211 is hereby amended to read as follows:

489.211 The Administrator : ~~shall~~

1.  ~~possess~~ *Must possess* a broad knowledge of generally accepted management practices and be reasonably well informed on laws governing manufactured homes, mobile homes, travel trailers, *manufactured buildings, factory-built housing* and commercial coaches.

2.  ~~Hold no~~ *Shall not hold an* interest in any firm which sells, distributes, manufactures, rebuilds or services any manufactured home, mobile home, travel trailer ~~or~~, *manufactured building*, commercial coach *or factory-built housing* or which installs any manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach ~~or~~ *factory-built housing*, or act as agent for any of them.

Sec. 25. NRS 489.221 is hereby amended to read as follows:

489.221 ~~No~~ An employee of the Division ~~may~~ shall not hold an interest in any firm which sells, *distributes*, manufactures, rebuilds or services any manufactured home, mobile home, travel trailer ~~or~~ , *manufactured building*, commercial coach *or factory-built housing* or which installs any manufactured home, mobile home ~~or~~ , *manufactured building*, commercial coach ~~or~~ *or factory-built housing*, or act as an agent for any of them.

Sec. 26. NRS 489.231 is hereby amended to read as follows:

489.231 1. ~~In order to~~ To carry out the provisions of this chapter, the Administrator may:

(a) Issue subpoenas for the attendance of witnesses or the production of books, papers and documents; and

(b) Conduct hearings.

2. The Administrator may apply for and receive grants from the Secretary of Housing and Urban Development for developing and carrying out a plan for enforcement and administration of federal standards of safety and construction respecting manufactured homes offered for sale or lease in this State.

3. The Administrator may adopt regulations to ensure acceptance by the Secretary of Housing and Urban Development of the state plan for administration and enforcement of federal standards of safety and construction respecting manufactured homes in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 , ~~(42 U.S.C. §§ 5401 et seq. )~~

4. The Administrator may:

(a) Make inspections;

(b) Approve plans and specifications;

(c) Provide technical services;

(d) Issue licenses, *permits*, certificates of ownership and certificates and labels of compliance and installation;

(e) Enter into reciprocal agreements with other states or private organizations that adopt and maintain standards reasonably consistent with this chapter;

(f) Collect the fees provided for in this chapter; and

(g) Adopt regulations necessary to carry out his duties under this chapter.

5. The Administrator or his representative may enter, at reasonable times and without notice, any mobile home park or place of business or any factory, warehouse or establishment in which manufactured homes, mobile homes , ~~or~~ travel trailers , *manufactured buildings or factory-built housing* are manufactured, stored or held for sale *or distribution* and inspect at reasonable times in a reasonable manner the premises and books, papers, records and documents which are relevant to the manufacture , *distribution* and sale of manufactured homes, mobile homes , ~~or~~ travel trailers , *manufactured buildings or factory-built housing* and compliance with the National Manufactured Housing Construction and Safety Standards Act of

1974 , ~~{~~ 42 U.S.C. §§ 5401 et seq. ~~}~~ , *this chapter and chapter 461 of NRS, and any regulations adopted pursuant thereto*, and to compliance by landlords of mobile home parks with the prohibition in NRS 118B.140 against charging or receiving any entrance or exit fee. A magistrate shall issue a warrant to permit an inspection if the Administrator has shown:

(a) Evidence that a violation of a provision of this chapter or of the prohibition in NRS 118B.140 against charging or receiving any entrance or exit fee has been committed or is being committed; or

(b) That the business has been chosen for an inspection on the basis of a general administrative plan for the enforcement of the provisions of this chapter.

Sec. 27. NRS 489.263 is hereby amended to read as follows:

489.263 1. The Administrator may adopt regulations establishing a system for the issuance ~~and renewal~~ of permits for the installation, design, approval , *repair* or modification of manufactured homes, mobile homes ~~for~~ , *manufactured buildings*, commercial coaches ~~for~~ *or factory-built housing*.

2. The regulations may include, without limitation:

(a) The requirements and procedures for applying for ~~and renewing~~ a permit;

(b) The criteria for determining whether to issue ~~or renew~~ a permit;

(c) The grounds for revocation and the requirements for reinstatement of a permit; and

(d) The procedures for the enforcement of a system for issuing ~~and renewing~~ permits.

Sec. 28. NRS 489.285 is hereby amended to read as follows:

489.285 1. The Division shall adopt regulations concerning continuing education requirements for *dealers, distributors*, general servicemen , ~~and~~ specialty servicemen , ~~for manufactured homes, mobile homes or commercial coaches, and~~ responsible managing employees and salesmen. The regulations must include the:

(a) Criteria for determining what qualifies as continuing education;

(b) Criteria for approving educational and training programs;

(c) Requirements for submitting evidence of completion; and

(d) Grounds and procedures for granting an extension of time within which to comply with continuing education requirements.

2. In adopting regulations pursuant to subsection 1, the Division shall:

(a) Allow for alternative subjects, instructors, schools and sources of programs, with consideration for specialized areas of practice, availability and proximity of resources to the licensees and applicants, and the time and expense required to participate in the programs.

(b) Approve courses offered by generally accredited educational institutions and private vocational schools if those courses otherwise qualify as continuing education.

(c) Approve training and educational programs and seminars offered by:

(1) Individual sponsors;



(2) Manufactured housing firms and businesses such as dealers, *distributors*, general servicemen, specialty servicemen, manufacturers ~~{of manufactured homes, mobile homes or commercial coaches,}~~ and suppliers of the various components for constructing such homes or coaches, including heating and air-conditioning systems, material for roofing and siding, skirting, awnings and other components;

(3) Professional and industry-related organizations; and

(4) Other organized educational programs concerning technical or specialized subjects, including in-house training programs offered by an employer for his employees and participation in meetings and conferences of industry-related organizations.

(d) Solicit advice and assistance from persons and organizations that are knowledgeable in the construction, sale, *distribution*, installation, rebuilding and servicing of manufactured homes, mobile homes ~~{or}~~, *manufactured buildings*, commercial coaches *or factory-built housing* and the method of educating licensees.

3. The Division is not responsible for the costs of any continuing education program, but may participate in the funding of those programs subject to legislative appropriations.

4. As used in this section, "industry-related organizations" includes, without limitation, the:

- (a) Manufactured Housing Institute;
- (b) Manufactured Home Community Owners ; ~~{Association;}~~
- (c) Nevada Association of Manufactured Home Owners, Inc.;
- (d) Nevada Association of Realtors; and
- (e) Any other organization approved by the Division.

Sec. 29. NRS 489.305 is hereby amended to read as follows:

489.305 To open a branch office, a dealer, *distributor*, general serviceman or specialty serviceman ~~{, as the case may be,}~~ must:

- 1. Obtain a license from the Division to operate the branch office; and
- 2. Provide for direct supervision of the branch office, either by himself or by employing a responsible managing employee.

Sec. 30. NRS 489.311 is hereby amended to read as follows:

489.311 1. Except as otherwise provided by NRS 489.331, no person may engage or offer to engage in the business of a dealer, *distributor*, manufacturer, general serviceman or specialty serviceman in this State, or be entitled to any other license or permit required by this chapter, until he has applied for and has been issued a license by the Division.

2. For the purposes of this section, a person engages in the business of a dealer, *distributor*, manufacturer, general serviceman or specialty serviceman in this State if he, without limitation, submits a bid to perform any activity requiring a license pursuant to this section.

Sec. 31. NRS 489.321 is hereby amended to read as follows:

489.321 1. An application for a manufacturer's, dealer's, *distributor's*, general serviceman's or specialty serviceman's license must be filed upon

forms supplied by the Division and include the social security number of the applicant. The applicant must furnish:

(a) Any proof the Division may deem necessary that the applicant is a manufacturer, dealer, *distributor*, general serviceman or specialty serviceman.

(b) Any proof the Division may require that the applicant has an established place of business.

(c) Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information relating to the fingerprints of an applicant under this section.

(e) In the case of a dealer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make or makes concerned.

(f) A reasonable fee fixed by regulation.

(g) In the case of a dealer, *distributor* or general serviceman, proof of passing the examination required under subsection 1 of NRS 489.351.

(h) In the case of a specialty serviceman, proof of passing the examination required under subsection 1 of NRS 489.351 or proof that the examination has been waived pursuant to subsection 2 of NRS 489.351.

(i) Any additional requirements the Division may from time to time prescribe by regulation.

2. Within 60 days after the receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Division shall issue to the applicant a dealer's, manufacturer's, *distributor's*, general serviceman's or specialty serviceman's license containing the applicant's name and the address of his fixed place of business.

4. Each license is valid for a period of 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

Sec. 32. NRS 489.321 is hereby amended to read as follows:

489.321 1. Applications for a manufacturer's, dealer's, *distributor's*, general serviceman's or specialty serviceman's license must be filed upon forms supplied by the Division, and the applicant shall furnish:

(a) Any proof the Division may deem necessary that the applicant is a manufacturer, dealer, *distributor*, general serviceman or specialty serviceman.

(b) Any proof the Division may require that the applicant has an established place of business.

(c) Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information respecting the fingerprints of an applicant under this section.

(e) In the case of a dealer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make or makes concerned.

(f) A reasonable fee fixed by regulation.

(g) In the case of a dealer, *distributor* or general serviceman, proof of passing the examination required under subsection 1 of NRS 489.351.

(h) In the case of a specialty serviceman, proof of passing the examination required under subsection 1 of NRS 489.351 or proof that the examination has been waived pursuant to subsection 2 of NRS 489.351.

(i) Any additional requirements the Division may from time to time prescribe by regulation.

2. Within 60 days after receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Division shall issue to the applicant a dealer's, manufacturer's, *distributor's*, general serviceman's or specialty serviceman's license certificate containing the applicant's name and the address of his fixed place of business.

4. Each license is valid for a period of 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

Sec. 33. NRS 489.323 is hereby amended to read as follows:

489.323 If a licensee is a *dealer*, *distributor*, general serviceman, ~~for~~ specialty serviceman, ~~for manufactured homes, mobile homes or commercial coaches, or a~~ responsible managing employee or salesman, the Division shall not renew a license issued to that licensee until the licensee has submitted proof satisfactory to the Division that he has, during the 2-year period immediately preceding the renewal of the license, completed at least

8 hours of continuing education approved by the Division pursuant to NRS 489.285.

Sec. 34. NRS 489.336 is hereby amended to read as follows:

489.336 1. The Division shall adopt regulations for the issuance of limited *lien* resale licenses *and permits* authorizing a landlord or manager to sell a used mobile home ~~[Regulations adopted pursuant to this section]~~ if:

(a) *The mobile home is located in a mobile home park that the landlord or manager owns, leases or manages; and*

(b) *The landlord or manager purchased the mobile home at a sale to enforce a lien pursuant to NRS 108.270 to 108.367, inclusive.*

2. *The regulations must specify the requirements for licensure, the issuance of a license or permit, including, without limitation, any educational requirements.*

~~[2.]~~ 3. A person who is ~~[licensed]~~ issued a license or permit pursuant to the regulations ~~[described in subsection 1]~~ may sell a used mobile home if:

~~(a) The mobile home is located in a mobile home park that the landlord or manager owns, leases or manages; and~~

~~(b) The landlord or manager purchased the mobile home at a sale to enforce a lien pursuant to NRS 108.270 to 108.367, inclusive.~~

~~3.]~~ *in accordance with the license or permit.*

4. As used in this section:

(a) "Landlord" has the meaning ascribed to it in NRS 118B.014.

(b) "Manager" has the meaning ascribed to it in NRS 118B.0145.

(c) "Mobile home park" has the meaning ascribed to "manufactured home park" in NRS 118B.017.

Sec. 35. NRS 489.341 is hereby amended to read as follows:

489.341 1. A person shall not act as a salesman in this State or as a responsible managing employee for a person who sells, leases, *distributes*, reconstructs, improves, repairs or installs any manufactured home, mobile home ~~[or]~~, *manufactured building*, commercial coach *or factory-built housing* subject to the provisions of this chapter without first having received a license from the Division. Before issuing such a license, the Division shall require:

(a) An application, signed and verified by the applicant, stating that he desires to act as a salesman or responsible managing employee and providing his residential address, his social security number and the name and address of his employer.

(b) Proof of the employment of the applicant at the time the application is filed. An applicant for a license as a responsible managing employee shall submit proof of 2 years' experience within the previous 4 years in the business in which the applicant is seeking to be licensed as a responsible managing employee.

(c) Proof of the applicant's good character and reputation and of his fitness to act as a salesman or responsible managing employee.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information relating to the fingerprints of an applicant.

(e) A statement as to whether any previous application of the applicant has been denied or license revoked.

(f) Payment of a reasonable license fee established by regulation.

(g) The applicant to have passed the examination required by NRS 489.351.

(h) Any other information the Division deems necessary.

2. Within 60 days after the receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Administrator shall issue to the applicant a license as a salesman or a responsible managing employee. The license must contain the licensee's name and the address of his employer's place of business.

4. Each license is valid for 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

5. A person licensed pursuant to this section shall not engage in sales activity other than for the account of, or for and in behalf of, a single employer who is a licensed dealer ~~or~~ *distributor*.

6. A license issued pursuant to this section may be transferred to another licensed employer upon application and the payment of a transfer fee of \$10. When a salesman or responsible managing employee holding a current license leaves the employment of one dealer, *distributor*, general serviceman or specialty serviceman for that of another, the new employer may employ the salesman or responsible managing employee pending the transfer of the license if the transfer is completed within 10 days.

7. A license issued pursuant to this section must be posted in a conspicuous place on the premises of the employer for whom the holder of the license is licensed.

8. If a salesman or responsible managing employee ceases to be employed by a licensed dealer, *distributor*, general serviceman or specialty serviceman, his license to act as a salesman or responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases, and he shall not engage in such an activity until reemployed by a licensed dealer, *distributor*, general serviceman or specialty serviceman. Every licensed salesman and responsible managing employee shall report in writing to the Division every change in his place of

employment or termination of employment within 5 days after the date of making the change.

Sec. 36. NRS 489.341 is hereby amended to read as follows:

489.341 1. A person shall not act as a salesman in this State or as a responsible managing employee for a person who sells, leases, *distributes*, reconstructs, improves, repairs or installs any manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach or *factory-built housing* subject to the provisions of this chapter without first having received a license from the Division. Before issuing such a license, the Division shall require:

(a) An application, signed and verified by the applicant, stating that he desires to act as a salesman or responsible managing employee and providing his residential address and the name and address of his employer.

(b) Proof of the employment of the applicant at the time the application is filed. An applicant for a license as a responsible managing employee shall submit proof of 2 years' experience within the previous 4 years in the business in which the applicant is seeking to be licensed as a responsible managing employee.

(c) Proof of the applicant's good character and reputation and of his fitness to act as a salesman or responsible managing employee.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information respecting the fingerprints of an applicant.

(e) A statement as to whether any previous application of the applicant has been denied or license revoked.

(f) Payment of a reasonable license fee established by regulation.

(g) The applicant to have passed the examination required by NRS 489.351.

(h) Any other information the Division deems necessary.

2. Within 60 days after receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Administrator shall issue to the applicant a license as a salesman or a responsible managing employee. The license must contain the licensee's name and the address of his employer's place of business.

4. Each license is valid for 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

5. A person licensed pursuant to this section shall not engage in sales activity other than for the account of or for and in behalf of a single employer who is a licensed dealer ~~[-]~~ or *distributor*.

6. A license issued pursuant to this section may be transferred to another licensed employer upon application and the payment of a transfer fee of \$10. When a salesman or responsible managing employee holding a current license leaves the employment of one dealer, *distributor*, general serviceman or specialty serviceman for that of another, the new employer may employ the salesman or responsible managing employee pending the transfer of the license if the transfer is completed within 10 days.

7. A license issued pursuant to this section must be posted in a conspicuous place on the premises of the employer for whom the holder of the license is licensed.

8. If a salesman or responsible managing employee ceases to be employed by a licensed dealer, *distributor*, general serviceman or specialty serviceman, his license to act as a salesman or responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases, and he shall not engage in such an activity until reemployed by a licensed dealer, *distributor*, general serviceman or specialty serviceman. Every licensed salesman and responsible managing employee shall report in writing to the Division every change in his place of employment or termination of employment within 5 days after the date of making the change.

Sec. 37. NRS 489.342 is hereby amended to read as follows:

489.342 1. A natural person who applies for the issuance or renewal of a manufacturer's, dealer's, *distributor's*, general serviceman's, specialty serviceman's, salesman's or *responsible* managing employee's license shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Division.

3. A manufacturer's, dealer's, *distributor's*, general serviceman's, specialty serviceman's, salesman's or *responsible* managing employee's license may not be issued or renewed by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public

agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 38. NRS 489.343 is hereby amended to read as follows:

489.343 1. Every partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company* doing business as a manufacturer, dealer, *distributor*, general serviceman or specialty serviceman in this State shall designate one of its members, and every corporation doing business as a manufacturer, dealer, *distributor*, general serviceman or specialty serviceman in this State shall designate one of its officers, to submit an application for a manufacturer's, dealer's, *distributor's*, general serviceman's or specialty serviceman's license.

2. The Division shall issue a manufacturer's, dealer's, *distributor's*, general serviceman's or specialty serviceman's license to the member or officer on behalf of the corporation , *company* or partnership upon:

(a) The designated member or officer, in the case of a dealer, *distributor*, general serviceman or specialty serviceman, successfully passing the examination required pursuant to subsection 1 of NRS 489.351 unless, in the case of a specialty serviceman, the examination is waived pursuant to subsection 2 of NRS 489.351; and

(b) Compliance with all other requirements of law or any other additional requirements the Division may from time to time prescribe by regulation by the partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company*, or corporation, as well as by the designated member or officer.

3. Upon receipt of the license, the designated member or officer is entitled to perform all the acts authorized by a license issued by the Division, except:

(a) That the license issued entitles the designated member or officer to act pursuant to the terms and conditions of the license issued by the Division only as officer or agent of the partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company*, or corporation, and not on his own behalf; and

(b) That if the person designated by the partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company*, or corporation:

(1) Is refused a license by the Division; or



(2) Ceases to be connected with the partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company* or corporation,  
 ↳ the partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company*, or corporation may designate another person who shall make application and qualify as in the first instance.

Sec. 39. NRS 489.344 is hereby amended to read as follows:

489.344 Each member or officer of a partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company*, or a corporation who will perform or engage in any of the acts specified in NRS 489.076, 489.102, 489.115 or 489.147, *or section 2 of this act*, other than the member or officer designated for that purpose by the partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company*, or the corporation , in the manner provided in NRS 489.343, must apply for and take out a separate manufacturer's, dealer's, *distributor's*, general serviceman's or specialty serviceman's license in his own name. The license issued to any such member or officer of a partnership , *company* or corporation entitles the member or officer to act as a manufacturer, dealer, *distributor*, general serviceman or specialty serviceman only as an officer or agent of the partnership , *limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company*, or corporation and not on his own behalf.

Sec. 40. NRS 489.351 is hereby amended to read as follows:

489.351 1. Except as otherwise provided in subsection 2, the Administrator shall require an oral or written examination of each applicant for a license as a dealer, *distributor*, responsible managing employee, salesman, general serviceman or specialty serviceman.

2. The Administrator may waive the examination required pursuant to subsection 1 for an applicant for a license as a specialty serviceman if:

- (a) The applicant holds another valid license issued by this State; and
- (b) The services performed by the applicant pursuant to that license are substantially similar to the services to be performed by the applicant as a specialty serviceman.

Sec. 41. NRS 489.401 is hereby amended to read as follows:

489.401 The following grounds, among others, constitute grounds for disciplinary action pursuant to NRS 489.381:

1. The intentional publication, circulation or display of any advertising which constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to 598.0925, inclusive.

2. Failure to include in any advertising the name of the licensed dealer, *distributor*, general serviceman or specialty serviceman, or the name under which he is doing business.

3. Making any substantial misrepresentation or false promise which is likely to influence, persuade or induce, or continually failing to fulfill promises to sell, breaching agreements or contracts or making false promises by any means.

4. Failure to disclose all terms and conditions of a sale, purchase or lease or offer to sell, purchase or lease a manufactured home, mobile home , *manufactured building* or commercial coach ~~[-]~~ or *factory-built housing*.

5. Failure to disclose to a person with whom the licensed dealer or distributor is dealing with regard to the sale, *distribution*, purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer or distributor knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, *distribution*, purchase or lease of the manufactured home.

6. Failure to comply with the provisions of NRS 489.595.

7. Representing to any lender, guaranteeing agency or other interested party, orally or through the preparation of false documents:

(a) An amount in excess of the actual sales price;

(b) A false amount as the down payment, earnest money deposit or other valuable consideration;

(c) Terms differing from those actually agreed upon; or

(d) False information on a credit application.

8. Inducing an applicant to falsify his credit application.

9. Failure to obtain from the holder of any lien or security interest in a manufactured home, mobile home , *manufactured building* or commercial coach ~~[-]~~ or *factory-built housing* within 10 days before the closure of a sale ~~[of the manufactured home, mobile home or commercial coach,]~~ a written acknowledgment that the holder of the lien or security interest has received written notification of the sale.

Sec. 42. NRS 489.411 is hereby amended to read as follows:

489.411 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Claiming, demanding or receiving a fee, compensation or commission under any exclusive agreement, authorizing or employing a licensee to sell, *distribute*, buy or exchange a manufactured home, mobile home , *manufactured building* or commercial coach or *factory-built housing* for compensation or commission, where the agreement does not contain a definite specified date of final and complete termination, does not set forth the terms and conditions of the exclusive agreement or is not signed by both the licensee and the owner.

2. While the employee, agent or fiduciary of a licensee, soliciting, accepting or agreeing to accept any benefit, fee, commission or compensation for the performance of any of the acts specified in this chapter from any person except the licensee with whom he is associated or employed.

3. Paying a commission or other compensation to any person or employing any person for performing the services of a person required to be licensed under this chapter who has not first secured his license pursuant to this chapter.

4. Commingling the money or other property of his principals with his own or converting the money of others to his own use.

5. Knowingly permitting a person whose license has been revoked or suspended or who does not hold a valid license to engage on behalf of the licensed dealer *or distributor* in acts that require a license.

6. In the case of a salesman, failing to give to the licensed dealer *or distributor* by whom the salesman is employed, as soon as practicable after receipt, a deposit or other money or consideration entrusted to him by a person dealing with the salesman as a representative of the licensed dealer ~~or distributor~~ *or distributor*.

7. Failing within a reasonable time to account for or to remit any money coming into his possession which belongs to others.

8. Failure or refusal by a licensee to pay or otherwise discharge any final judgment rendered and entered against him which arises out of the conduct of his business licensed under this chapter.

9. Acting in the dual capacity of agent and undisclosed principal in a transaction.

Sec. 43. NRS 489.416 is hereby amended to read as follows:

489.416 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Workmanship which:

(a) Is not commensurate with standards of the trade in general;

(b) Is below standards adopted by the Division or the *codes and standards* ~~[determined by the edition of the Uniform Building Code, Uniform Plumbing Code or the National Electrical Code, respectively, in effect on July 1, 1983;]~~ *adopted pursuant to this chapter and chapter 461 or NRS, and any regulations adopted pursuant thereto; or*

(c) Endangers the life and safety of an occupant of a manufactured home, mobile home, *manufactured building* or commercial coach ~~or factory-built housing~~ *or factory-built housing*.

2. Failure to honor any warranty or other guarantee given by a licensee for workmanship or material as a condition of securing a contract, or of selling, *distributing*, leasing, reconstructing, improving, repairing or installing any manufactured home, mobile home, *manufactured building*, commercial coach, *factory-built housing* or accessory structure.

3. Gross negligence or incompetence in performing an act for which a license is required pursuant to this chapter.

Sec. 44. NRS 489.423 is hereby amended to read as follows:

489.423 1. Upon a finding that a licensed dealer *or distributor* knew, or by the exercise of reasonable care and diligence should have known, of any unlawful act or violation of a provision of this chapter by a salesman, general

serviceman, ~~or~~ specialty serviceman *or any other person* who is employed by or associated with the licensed dealer ~~or~~ *distributor*, the Administrator may suspend or revoke the license of the licensed dealer *or distributor* and impose an administrative fine upon him of not more than \$1,000.

2. Upon a finding that a licensed dealer *or distributor* failed to maintain adequate supervision of a salesman, general serviceman or specialty serviceman who, while employed by or associated with the licensed dealer ~~or~~ *distributor*, committed any unlawful act or violated a provision of this chapter, the Administrator may suspend or revoke the license of a licensed dealer *or distributor* and impose an administrative fine upon him of not more than \$1,000.

3. *Upon a finding that a licensed general serviceman or specialty serviceman knew, or by the exercise of reasonable care and diligence should have known, of any unlawful act or violation of a provision of this chapter by any person who is employed by or associated with the licensed general serviceman or specialty serviceman, the Administrator may suspend or revoke the license of the licensed general serviceman or specialty serviceman and impose an administrative fine upon him of not more than \$1,000.*

Sec. 45. NRS 489.425 is hereby amended to read as follows:

489.425 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a manufacturer's, dealer's, *distributor's*, general serviceman's, specialty serviceman's, salesman's or *responsible* managing employee's license, the Division shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a manufacturer's, dealer's, *distributor's*, general serviceman's, specialty serviceman's, salesman's or *responsible* managing employee's license that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 46. NRS 489.481 is hereby amended to read as follows:

489.481 The Division shall adopt regulations providing fees for:

1. Certificates of installation;
2. Labels of installation;
3. Certificates of compliance;
4. Labels of compliance;
5. Certificates of ownership;

6. Licenses of manufacturers, dealers, *distributors*, salesmen, responsible managing employees, general servicemen and specialty servicemen;

7. Licenses for branch offices; and

8. Any other services provided by the Division.

Sec. 47. NRS 489.4971 is hereby amended to read as follows:

489.4971 1. The Account for Education and Recovery Relating to Manufactured Housing is hereby created within the Fund for Manufactured Housing to satisfy the claims of purchasers of manufactured homes, mobile homes ~~or~~, *manufactured buildings*, commercial coaches *or factory-built housing* against persons licensed pursuant to the provisions of this chapter. Any balance in the Account over \$500,000 at the end of any fiscal year must be set aside and used by the Administrator for education relating to manufactured homes, mobile homes, travel trailers ~~or~~, *manufactured buildings*, commercial coaches ~~or~~ *or factory-built housing*.

2. Upon the issuance or renewal of the following licenses by the Division, the licensee must pay, in addition to the original or renewal license fee, a fee:

(a) For a dealer's, *distributor's* or manufacturer's original license, or for any original limited dealer's license ~~or~~ *which authorizes a limited dealer to act as a reposessor or liquidator*, of \$1,000.

(b) For a dealer's, *distributor's* or manufacturer's renewal license, or a renewal of any limited dealer's license ~~or~~ *which authorizes a limited dealer to act as a reposessor or liquidator*, of \$600.

(c) For an original or renewal license for:

(1) A general serviceman or specialty serviceman, of \$150.

(2) A salesman, of \$75.

(3) A responsible managing employee, of \$100.

↳ Except as otherwise provided in NRS 489.265, fees collected pursuant to this section must be deposited in the State Treasury for credit to the Account.

3. A payment from the Account to satisfy the claim of a purchaser specified in subsection 1 against a person who is licensed pursuant to this chapter must be made only upon an appropriate court order that is issued in an action for fraud, misrepresentation or deceit relating to an act for which a license is required pursuant to this chapter.

4. If a purchaser specified in subsection 1 commences an action specified in subsection 3 against a person who is licensed pursuant to this chapter, the purchaser must serve a copy of the complaint upon the Administrator within 30 days after the action is commenced.

Sec. 48. NRS 489.4975 is hereby amended to read as follows:

489.4975 1. If a purchaser of a manufactured home, mobile home, *manufactured building* or commercial coach *or factory-built housing* obtains a final judgment in any court of competent jurisdiction against any licensee under this chapter in an action specified in subsection 3 of NRS 489.4971, the judgment creditor may, upon the termination of all proceedings, including appeals in connection with any judgment, file a verified petition in the court

in which the judgment was entered for an order directing payment from the Account in the amount of actual damages included in the judgment and unpaid, but not more than \$25,000 per judgment and the liability of the Account may not exceed \$100,000 for any licensee.

2. A copy of the petition must be served upon the Administrator and an affidavit of service filed with the court. The petition and each copy of the petition served pursuant to this subsection must set forth the grounds which entitle the judgment creditor to recover from the Account and must include a copy of:

- (a) The final judgment specified in subsection 1;
- (b) The complaint upon which the final judgment was entered; and
- (c) If assets are known to exist, the writ of execution that was returned unsatisfied.

3. The court shall act upon the petition within 30 days after service and, upon the hearing of the petition, the judgment creditor must show that:

(a) He is not the spouse of the judgment debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of NRS 489.4971 to 489.4989, inclusive.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount of the judgment and the amount owing on it at the date of the petition.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of any of them that were found under the execution was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He and the Division have made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.

(f) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

4. A person licensed pursuant to this chapter shall not recover from the Account for damages related to a transaction in which he acted in his capacity as a licensee.

Sec. 49. NRS 489.501 is hereby amended to read as follows:

489.501 1. When a new manufactured home, *new mobile home*, *new manufactured building* or *new commercial coach or new factory-built housing* is sold in this State by a dealer ~~or distributor,~~ he shall complete a ~~dealer's~~ report of sale. The ~~dealer's~~ report of sale must be in a form prescribed by the Division and include a description of the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach ~~or~~ *factory-built housing*, the name and address of the seller and the name and address of the buyer. If in connection with the sale a security interest is taken

or retained by the ~~the distributor~~ seller or dealer to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach ~~or~~ *factory-built housing*, the name and address of the secured party or his assignee must be entered on the ~~dealer's~~ report of sale.

2. The dealer ~~for distributor~~ shall require the buyer to sign an acknowledgment of taxes, on a form prescribed by the Division, which includes a statement that a manufactured home, mobile home, *manufactured building* or commercial coach *or factory-built housing* is taxable in the county in which it is located. A dealer ~~for distributor~~ who sells a new manufactured home, *new mobile home*, *new manufactured building* or *new commercial coach or new factory-built housing* shall deliver the buyer's copy of the acknowledgment of taxes to him at the time of sale and submit another copy within 30 days after the date of the sale to the county assessor of the county in which the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach *or factory-built housing* will be located.

3. The dealer ~~for distributor~~ shall submit the original of the ~~dealer's~~ report of sale and the manufacturer's certificate or statement of origin to the Division within 30 days after the execution of all instruments which the contract of sale required to be executed at the time of sale or within 30 days after the date of sale, whichever is later, unless an extension of time is granted by the Division.

4. A dealer ~~for distributor~~ who sells a new manufactured home, *new mobile home*, *new manufactured building* or *new commercial coach or new factory-built housing* shall deliver the buyer's copy of the report of sale to him at the time of sale and submit another copy within 30 days after the date of the sale to the county assessor of the county in which the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach *or factory-built housing* will be located.

Sec. 50. NRS 489.511 is hereby amended to read as follows:

489.511 1. If a used or rebuilt manufactured home, mobile home, *manufactured building* or commercial coach *or used or rebuilt factory-built housing* is sold in this State by a dealer, the dealer shall complete a dealer's report of sale. The report must be in a form prescribed by the Division and include a description of the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach ~~or~~ *factory-built housing*, the name and address of the seller and the name and address of the buyer. If a security interest exists at the time of the sale, or if in connection with the sale a security interest is taken or retained by the seller or dealer to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach ~~or~~ *factory-built housing*, the name and address of the secured party must be entered on the dealer's report of sale.

2. The dealer shall submit the original of the dealer's report of sale to the Division within 45 days after the execution of all instruments which the contract of sale requires to be executed at the time of the sale, unless an extension of time is granted by the Division, together with the endorsed certificate of title or certificate of ownership previously issued. The dealer shall furnish one copy of the report of sale to the buyer at the time of the sale. Within 45 days after the sale, the dealer shall furnish one copy of the report of sale to the assessor of the county in which the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach *or factory-built housing* will be located.

3. The dealer shall require the buyer to sign an acknowledgment of taxes, on a form prescribed by the Division, which includes a statement that the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach *or factory-built housing* is taxable in the county in which it is located. The dealer shall deliver the buyer's copy of the acknowledgment to him at the time of sale and submit another copy to the county assessor of the county in which the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach *or factory-built housing* is to be located.

4. If a used or rebuilt manufactured home, mobile home, *manufactured building* or commercial coach *or used or rebuilt factory-built housing* is sold by a dealer pursuant to an installment contract or other agreement by which the certificate of title or certificate of ownership does not pass immediately from the seller to the buyer upon the sale, the dealer shall submit to the Division any information required by the regulations adopted by the Administrator pursuant to NRS 489.272.

Sec. 51. NRS 489.521 is hereby amended to read as follows:

489.521 1. If a used or rebuilt manufactured home, mobile home, *manufactured building* or commercial coach *or used or rebuilt factory-built housing* is sold in this State by a person who is not a dealer, ~~or distributor,~~ the seller or buyer, or both, shall submit to the Division, and a copy to the county assessor of the county in which the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach *or factory-built housing* is located, within 45 days after the sale:

(a) If a certificate of ownership has been issued in this State, that certificate properly endorsed.

(b) If a certificate of title or other document of title has been issued by a public authority of another state, territory or country:

(1) The certificate or document properly endorsed; and

(2) A statement showing, if not included on the endorsed certificate or document, the description of the manufactured home, mobile home ~~or~~, *manufactured building*, commercial coach ~~or~~ *factory-built housing*, the names and addresses of the buyer and seller, and the name and address of any person who takes or retains a purchase money security interest. The statement must be signed and acknowledged by the seller and buyer.



(c) If a document of title has not been issued by any public authority, a statement showing all the information and signed and acknowledged in the manner required by subparagraph (2) of paragraph (b) of subsection 1.

2. If a used or rebuilt manufactured home, mobile home, *manufactured building* or commercial coach *or used or rebuilt factory-built housing* is sold by a person who is not a dealer ~~for distributor~~ pursuant to an installment contract or other agreement by which the certificate of title or certificate of ownership does not pass immediately from the seller to the buyer upon the sale, the seller or buyer, or both, shall submit to the Division any information required by the regulations adopted by the Administrator pursuant to NRS 489.272.

Sec. 52. NRS 489.541 is hereby amended to read as follows:

489.541 1. Except as otherwise provided in ~~{subsection 4,}~~ *subsections 4 and 5*, upon receipt of the documents required by the Division, the Division shall issue a certificate of ownership.

2. If no security interest is created or exists in connection with the sale, the certificate of ownership must be issued to the buyer.

3. If a security interest is created by the sale, the certificate of ownership must be issued to the secured party or his assignee, and must show the name of the registered owner.

4. The Division shall not issue a certificate of ownership for a mobile home that has been determined to be substandard until the conditions that rendered the mobile home substandard are abated.

5. *The Division shall not issue a certificate of title or certificate of ownership for factory-built housing that constitutes real property pursuant to subsection 4 of NRS 361.244.*

Sec. 53. ~~[NRS 489.551 is hereby amended to read as follows:~~

~~489.551 Upon a transfer of the title to or the interest of an owner in a manufactured home, mobile home, *manufactured building* or commercial coach *or factory-built housing* for which a certificate of ownership is issued pursuant to the provisions of this chapter, the person whose title or interest is to be transferred and the transferee shall write their signatures with ink upon the certificate of ownership issued for the manufactured home, mobile home [or], *manufactured building*, commercial coach [,] *or factory built housing*, together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate. Each signature written upon a certificate of ownership pursuant to the provisions of this section must be notarized.] (Deleted by amendment.)~~

Sec. 54. ~~[NRS 489.561 is hereby amended to read as follows:~~

~~489.561 Whenever an application is made to the Division for title of a manufactured home, mobile home, *manufactured building* or commercial coach *or factory-built housing* previously titled and the applicant is unable to present the certificate of ownership previously issued because it is lost or being unlawfully detained by one in possession or is not otherwise available, the Division may receive the application and examine the circumstances of~~

~~the case and require the filing of affidavits or other information. When the Division is satisfied that the applicant is entitled to a certificate of ownership, it may issue the certificate on the manufactured home, mobile home [or], *manufactured building*, commercial coach [.] or *factory-built housing*.] (*Deleted by amendment.*)~~

Sec. 55. NRS 489.7154 is hereby amended to read as follows:

489.7154 1. Except as otherwise provided in subsection 2, a dealer shall not obtain or attempt to obtain the signature of a buyer on a contract for the sale or exchange of an interest in a mobile home, manufactured home , *manufactured building* or commercial coach *or factory-built housing* if any of the essential provisions of the contract are not set forth in the contract.

2. The dealer may insert:

(a) The identification number or identifying marks of a manufactured home, mobile home , *manufactured building* or commercial coach ~~[.]~~ *or factory-built housing*; and

(b) The date the first installment payment for the sale or exchange is due from the buyer,

↳ into the blank spaces of a contract after the contract has been signed by a buyer if the manufactured home, mobile home ~~[or]~~ , *manufactured building*, commercial coach *or factory-built housing* was not delivered to the buyer on the date the contract was executed.

3. The Administrator shall prescribe, by regulation, the essential provisions of a contract.

Sec. 56. NRS 489.7156 is hereby amended to read as follows:

489.7156 A brokerage agreement that includes a provision that grants a dealer the exclusive right to assist, solicit or negotiate the sale or exchange of an interest in a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* on behalf of a client is enforceable if the agreement:

1. Is in writing;

2. Sets forth the date the brokerage agreement expires;

3. Does not require the client to perform any act concerning the brokerage agreement after the agreement expires; and

4. Is signed by the client or his representative and the dealer or his representative.

Sec. 57. NRS 489.7158 is hereby amended to read as follows:

489.7158 1. A dealer who has entered into a brokerage agreement with a client for the sale or exchange of an interest in a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* shall:

(a) Seek the price and terms for the sale or exchange that are set forth in the brokerage agreement or are approved by the client;

(b) Present all offers made to or by the client as soon as practicable;

(c) Disclose to the client all the material facts known by him concerning the sale or exchange;

(d) Advise the client to obtain advice from an expert concerning any matters that are beyond the knowledge or expertise of the dealer;

(e) As soon as practicable, account for all money and property he receives in which the client may have a financial interest; and

(f) As soon as practicable, deliver to each party a copy of the executed contract for the sale or exchange.

2. A dealer shall not enter into a brokerage agreement with a client for the sale or exchange of an interest in a manufactured home, mobile home, *manufactured building* or commercial coach *or factory-built housing* unless the dealer has determined that the client will be able to deliver good title upon the execution of the sale or exchange of the interest in the manufactured home, mobile home ~~for~~, *manufactured building*, commercial coach ~~for~~ *or factory-built housing*.

Sec. 58. ~~[NRS 489.716 is hereby amended to read as follows:~~

~~489.716 1. A dealer or distributor of new manufactured homes who is licensed pursuant to chapter 624 of NRS may enter into written agreements pursuant to which appropriately licensed providers of service agree to perform work pertinent to the sale, installation and occupancy of a manufactured home. If such a dealer or distributor enters into such a written agreement, the dealer or distributor is responsible for the workmanship and completion of all parts of the project involving the sale, installation and occupancy of the manufactured home, including, without limitation, any work performed by a provider of service pursuant to the written agreement.~~

~~2. A dealer or distributor of manufactured homes, regardless of whether he is licensed pursuant to chapter 624 of NRS, shall not require a buyer of a manufactured home to obtain services to be performed pertinent to the sale, installation or occupancy of the manufactured home from a specific provider. The dealer or distributor shall disclose to the buyer in writing the fact that the dealer or distributor is prohibited from requiring the buyer to obtain such services from a specific provider of services.~~

~~3. Before performing any work, a provider of services shall enter into a written agreement with each person for whom he will perform work which is pertinent to the sale, installation or occupancy of a manufactured home, including, without limitation, a dealer or distributor of manufactured homes, a person who owns a manufactured home and any person who is purchasing a manufactured home. The written agreement must include provisions specifying:~~

~~(a) The scope of work;~~

~~(b) The cost for completion of the work;~~

~~(c) The date on which work will begin;~~

~~(d) The anticipated date for completion of the work; and~~

~~(e) That no additional work may be performed and no additional costs may be charged unless agreed to in writing before the additional work is performed or costs are incurred.~~

~~4. As used in this section, "provider of services" means any person who performs work pertinent to the sale, installation and occupancy of a new manufactured home.~~ (*Deleted by amendment.*)

Sec. 59. NRS 489.717 is hereby amended to read as follows:

489.717 1. A dealer shall not require a person to obtain a loan or financing from him or any other person as a condition to the purchase, sale or exchange of a manufactured home, mobile home , *manufactured building* or commercial coach ~~or~~ *factory-built housing*.

2. A dealer shall disclose the substance of subsection 1 to each person with whom it agrees to purchase, sell or exchange a manufactured home, mobile home , *manufactured building* or commercial coach ~~or~~ *factory-built housing*. The Division may adopt regulations concerning the form and manner of the disclosure.

Sec. 60. NRS 489.723 is hereby amended to read as follows:

489.723 1. Any money that a dealer receives from a client or other person concerning the sale or exchange of an interest in a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* must be accounted for by the dealer when:

(a) The sale or exchange of the interest in the manufactured home, mobile home ~~or~~ , *manufactured building*, commercial coach *or factory-built housing* is executed; or

(b) The contract for the sale or exchange of the interest in the manufactured home, mobile home ~~or~~ , *manufactured building*, commercial coach *or factory-built housing* is rescinded by the dealer, client or any other person,

↳ whichever occurs earlier.

2. The dealer shall:

(a) Prepare or cause to be prepared a written itemized statement concerning each expenditure or deduction of money made by the dealer;

(b) Deliver or cause to be delivered to each person from whom the dealer received money a copy of the written itemized statement; and

(c) Maintain a copy of the written itemized statement at his place of business.

3. Except as otherwise provided in a brokerage agreement or an escrow agreement signed by the parties to a sale or exchange of an interest in a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* and the escrow agent or escrow officer licensed pursuant to the provisions of chapter 645A or 692A of NRS, no money concerning that sale or exchange held by a dealer may be distributed until:

(a) An application for:

(1) A certificate of ownership for the manufactured home, mobile home ~~or~~ , *manufactured building*, commercial coach ~~or~~ *factory-built housing*;

or

(2) A certificate of title or certificate of ownership that does not pass immediately upon the sale or transfer of the manufactured home, mobile home ~~{or}~~, *manufactured building*, commercial coach ~~{}~~ or *factory-built housing*,

↪ has been submitted to the Division;

(b) Each person who has a financial interest in the manufactured home, mobile home ~~{or}~~, *manufactured building*, commercial coach or *factory-built housing* has executed a document that releases or waives his interest; and

(c) Each party to the sale or exchange has complied with the requirements for the sale or exchange that are set forth in the regulations adopted pursuant to the provisions of this chapter.

~~4. Money deposited in escrow is not subject to execution or attachment on any claim against the escrow agent or agency.~~

~~5. An escrow agent or agency shall not knowingly keep or cause to be kept any money in any bank, credit union or other financial institution under any name designating the money as belonging to the clients of the escrow agent or agency, unless the money was actually entrusted to the escrow agent or agency by a client for deposit in escrow.~~

Sec. 61. NRS 489.724 is hereby amended to read as follows:

489.724 1. All down payments, deposits of earnest money, proceeds of loans or other money which a dealer ~~{or distributor}~~ receives ~~{}~~ on behalf of his principal or any other person ~~{}~~ must be deposited in a separate checking account, which must be designated a trust account, in a financial institution in this State whose deposits are insured by an agency of the Federal Government or by a private insurer approved pursuant to NRS 678.755.

2. Every dealer ~~{or distributor}~~ required to maintain a separate or trust account shall keep records of all money deposited therein. The records must clearly indicate the date and from whom he received money, the date deposited, the dates of withdrawals ~~{}~~ and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. All such records and money are subject to inspection and audit by the Division and its authorized representatives ~~{}~~ pursuant to section 12 of this act. All such separate trust accounts must designate the dealer ~~{or distributor}~~ as trustee and provide for the withdrawal of money without previous notice. ~~The dealer {or distributor} shall balance each separate trust account at least monthly. The dealer {or distributor} shall provide to the Division, on a form provided by the Division, an annual accounting which shows an annual reconciliation of each separate trust account.~~

3. All money deposited in a separate trust account from down payments, deposits of earnest money, proceeds of loans or other money received by a dealer ~~{or distributor}~~ from a person pursuant to a written contract signed by the dealer ~~{or distributor}~~ and that person must not be withdrawn from the account except to pay specific expenses as authorized by the written contract. ~~The dealer {or distributor} is personally responsible and liable for such~~

money at all times. A dealer ~~for distributor~~ shall not permit any advance payment of money belonging to another person to be deposited in the dealer's ~~for distributor's~~ business or personal account or to be commingled with any money he has on deposit.

4. Each dealer ~~for distributor~~ shall notify the Division of the names of the financial institutions in which he maintains trust accounts and specify the names of the accounts on forms provided by the Division.

Sec. 62. NRS 489.729 is hereby amended to read as follows:

489.729 If a licensed dealer takes a mobile home, manufactured home , *manufactured building* or commercial coach *or factory-built housing* in trade on the purchase of another such home , *building* or coach and there is an outstanding security interest, the licensed dealer shall satisfy the outstanding security interest within 30 days after the manufactured home, mobile home ~~for~~ , *manufactured building*, commercial coach *or factory-built housing* is taken in trade on the purchase of the other home , *building* or coach.

Sec. 63. NRS 489.741 is hereby amended to read as follows:

489.741 No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter, or in giving or failing to give any information concerning the legal ownership of a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* or the existence of a security interest in it.

Sec. 64. NRS 489.751 is hereby amended to read as follows:

489.751 1. Unless otherwise specifically waived in writing by the buyer, for each sale ~~of a manufactured home, mobile home or commercial coach~~ in which the dealer is the seller or an agent of the seller, there is an implied warranty by the dealer that all the essential systems are in working order upon the execution of the sale. For the purposes of this subsection, the words "as is" or any similar words do not constitute a waiver of the implied warranty unless the words specifically refer to a specific component of an essential system.

2. As used in this section, "essential system" means the heating, air-conditioning, electrical, plumbing and drainage systems of a manufactured home, mobile home , *manufactured building* or commercial coach ~~or~~ *factory-built housing*.

Sec. 65. NRS 489.772 is hereby amended to read as follows:

489.772 "Transferee" means any person who purchases, leases or *otherwise* takes possession ~~in any other manner~~ or attempts to purchase, lease or *otherwise* take possession ~~in any other manner~~ of a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* or any interest therein from a transferor.

Sec. 66. NRS 489.774 is hereby amended to read as follows:

489.774 "Transferor" means any person who:

1. Sells or leases or attempts to sell or lease a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* or any interest therein to a transferee; or

2. Transfers or attempts to transfer a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* or any interest therein to a transferee in any other manner.

Sec. 67. NRS 489.776 is hereby amended to read as follows:

489.776 1. Except as otherwise provided in this section and unless required to make a disclosure pursuant to NRS 40.770, if a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor or his agent who has actual knowledge of such information shall disclose the information to a transferee or his agent.

2. The disclosure described in subsection 1 is not required if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the manufactured home, mobile home ~~{or}~~ , *manufactured building*, commercial coach *or factory-built housing* by an entity certified or licensed to do so; or

(b) The manufactured home, mobile home ~~{or}~~ , *manufactured building*, commercial coach *or factory-built housing* has been deemed safe for habitation by a governmental entity.

3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a manufactured home, mobile home , *manufactured building* or commercial coach *or factory-built housing* by a transferor:

(a) To any co-owner of the manufactured home, mobile home ~~{or}~~ , *manufactured building*, commercial coach ~~{}~~ *or factory-built housing*, the spouse of the transferor or a person related within the third degree of consanguinity to the transferor; or

(b) If the transferor is a dealer and this is the first sale or transfer of a new manufactured home, *new mobile home* , *new manufactured building* or *new commercial coach* ~~{}~~ *or new factory-built housing*.

4. The Division may adopt regulations to carry out the provisions of this section.

Sec. 68. NRS 489.778 is hereby amended to read as follows:

489.778 1. A transferor or his agent, or both, who violates any provision of NRS 489.776 may be held liable to the transferee in any action at law or in equity.

2. An agent of a transferee who has actual knowledge of any information required to be disclosed pursuant to NRS 489.776 may be held liable to the transferee in any action at law or in equity if he fails to disclose that information to the transferee.

3. If a transferor makes a disclosure pursuant to NRS 489.776, the transferee may:

(a) Rescind the agreement to purchase, lease or take possession of the manufactured home, mobile home ~~{or}~~, *manufactured building*, commercial coach ~~{}~~ or *factory-built housing*;

(b) Make the agreement to purchase, lease or take possession of the manufactured home, mobile home ~~{or}~~, *manufactured building*, commercial coach or *factory-built housing* contingent upon the repair of any damage to the manufactured home, mobile home ~~{or}~~, *manufactured building*, commercial coach or *factory-built housing* that has been caused by the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Accept the manufactured home, mobile home ~~{or}~~, *manufactured building*, commercial coach or *factory-built housing* with the damage as disclosed by the transferor without further recourse.

4. The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

Sec. 69. NRS 489.811 is hereby amended to read as follows:

489.811 1. Except as otherwise provided in subsection 5, any person who violates any of the provisions of this chapter is liable to the State for a civil penalty of not more than \$1,000 for each violation. Each violation of this chapter or any regulation or order issued under it constitutes a separate violation with respect to each manufactured home, mobile home ~~{or}~~, *manufactured building*, commercial coach or *factory-built housing* and with respect to each failure or refusal to allow or perform an act required by this chapter or regulation or order, except that the maximum civil penalty is \$1,000,000 for any related series of violations occurring within 1 year after the first violation.

2. Before the adoption of any regulation for whose violation a civil penalty may be imposed, the Administrator shall give at least 30 days' written notice to every licensed manufacturer, dealer, *distributor*, general serviceman and specialty serviceman, and every other interested party who has requested the notice.

3. An action to enforce a civil penalty must be brought in a court of competent jurisdiction in the county in which the defendant has his principal place of business.

4. All money collected as civil penalties pursuant to the provisions of this chapter must be deposited in the State General Fund.

5. This section does not apply to a manufacturer, *distributor* or dealer of travel trailers.

Sec. 70. NRS 489.821 is hereby amended to read as follows:

489.821 1. A person is guilty of a gross misdemeanor who knowingly:

(a) Makes any false entry on any certificate of origin or certificate of ownership.



(b) Furnishes false information to the Division concerning any security interest.

(c) Files with the Administrator any notice, statement or other document required under the provisions of this chapter which is false or contains any material misstatement of fact.

(d) Whether acting individually or as a director, officer or agent of a corporation, violates a provision of the National Manufactured Housing Construction and Safety Standards Act of 1974 , ~~42 U.S.C. §§ 5401 et seq. 42~~ , *this chapter and chapter 461 of NRS, and any regulations adopted pursuant thereto*, causing a condition which endangers the health or safety of a purchaser of a manufactured home.

2. A dealer ~~for distributor~~ is guilty of a gross misdemeanor who knowingly:

(a) Fails to maintain a trust account as required by NRS 489.724.

(b) Commingles the money or other property of a seller or purchaser of a manufactured home , *manufactured building* or ~~a~~ mobile home or *factory-built housing* with his own.

(c) *Fails to cooperate or comply with or knowingly impedes or interferes with any investigation or audit conducted by the Division pursuant to section 12 of this act.*

(d) *Acts as a dealer ~~for distributor~~ while insolvent or engages in any financial practice which creates a substantial risk of insolvency.*

3. Except as *otherwise* provided in ~~subsections 1, 2 and 4 of~~ this section, any person who knowingly or willfully violates any ~~of the provisions~~ *provision* of this chapter is guilty of a misdemeanor.

4. Subsection 3 does not apply to a manufacturer of travel trailers.

Sec. 71. NRS 108.355 is hereby amended to read as follows:

108.355 1. A person contesting the validity of a lien on a mobile home or manufactured home may file a notice of opposition to the lien in the justice court in whose jurisdiction the mobile home or manufactured home is located. The notice of opposition must be filed within 5 days after the person filing the notice receives the notice of sale by auction, must be made on a form provided by the clerk of the justice court and must include the facts supporting the notice. The person filing the notice shall serve certified copies of it upon the lien claimant and the Manufactured Housing Division of the Department of Business and Industry.

2. Upon the filing of the notice of opposition to the lien, the justice of the peace shall schedule a hearing on the notice, which must be held as soon as practicable but not sooner than 5 days after service of the notice. The justice of the peace shall affix the date of the hearing to the notice and order that a copy be served upon the lien claimant within 5 days after the date of the order.

3. The justice of the peace shall either dismiss the objections to the lien claim, declare the lien invalid or declare the amount of the lien if it is different from that described by the lien claimant.

4. After receipt of a notice of opposition to a lien or other notice pursuant to any proceeding to contest the validity of a lien, the Manufactured Housing Division of the Department of Business and Industry shall not transfer the title to the mobile home or manufactured home that is the subject of the lien until the matter has been adjudicated.

5. *This section does not affect the rights of a secured party pursuant to chapter 104 of NRS.*

Sec. 72. Chapter 118B of NRS is hereby amended by adding thereto the provisions set forth as sections 73, 74 and 75 of this act.

Sec. 73. *"Certified appraiser" means an appraiser who possesses the necessary qualifications pursuant to the provisions of this chapter.*

Sec. 74. *To qualify as a certified appraiser, a person must be a dealer licensed pursuant to chapter 489 of NRS and possess a professional certification as an appraiser issued by:*

1. *The National Society of Appraiser Specialists, including, without limitation, a Board Certified Manufactured Housing Valuation designation; or*

2. *Any other organization approved by the Division.*

Sec. 75. *No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter.*

Sec. 76. NRS 118B.010 is hereby amended to read as follows:

118B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 118B.011 to 118B.0195, inclusive, *and section 73 of this act* have the meanings ascribed to them in those sections.

Sec. 77. NRS 118B.120 is hereby amended to read as follows:

118B.120 1. The landlord or his agent or employee may:

(a) Require that the tenant landscape and maintain the tenant's lot if the landlord advises the tenant in writing of reasonable requirements for the landscaping.

(b) If the tenant does not comply with the provisions of paragraph (a), maintain the tenant's lot and charge the tenant a service fee for the actual cost of that maintenance.

(c) Require that the manufactured home be removed from the park if it is unoccupied for more than 90 consecutive days and the tenant or dealer is not making good faith and diligent efforts to sell it.

2. The landlord shall maintain, in the manner required for the other tenants, any lot on which is located a manufactured home within the park which has been repossessed, abandoned or held for rent or taxes. The landlord is entitled to reimbursement for the cost of that maintenance from the repossessor or lienholder or from the proceeds of any sale for taxes, as the case may be.

3. *Before dismantling a manufactured home that was abandoned, the landlord or manager must:*

(a) Conduct a title search with the Division to determine the owner of record of the manufactured home. If the owner of record is not found, the landlord or manager may use the records of the county assessor for the county in which the manufactured home is located to determine the owner of the manufactured home.

(b) Send a certified letter notifying the owner and any lienholder of the intent of the landlord or manager to dismantle the manufactured home.

(c) If the owner does not respond within 30 days after the date of mailing the certified letter, submit to the Division an affidavit of dismantling.

4. The landlord shall trim all the trees located within the park and dispose of the trimmings from those trees absent a written voluntary assumption of that duty by the tenant for trees on the tenant's lot.

~~4.~~ 5. For the purposes of this section, a manufactured home shall be deemed to be abandoned if:

(a) It is located on a lot in a manufactured home park, other than a cooperative park, for which no rent has been paid for at least 60 days;

(b) It is unoccupied; and

(c) The manager of the manufactured home park reasonably believes it to be abandoned.

Sec. 78. NRS 118B.130 is hereby amended to read as follows:

118B.130 1. A landlord may not change:

(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or

(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.

2. A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of his election to move within 75 days after receiving notice of the change in restrictions in the park.

3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If a landlord is required to move a tenant to another park pursuant to subsection 1, he shall pay:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,

↪ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

- (a) May remove and dispose of the manufactured home; and
- (b) Shall pay to the tenant the fair market value of the manufactured home.

7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:

- (a) Tenant of the park who does not meet the new restrictions; and
- (b) Prospective tenant before the commencement of the tenancy.

8. For the purposes of this section, the fair market value of a manufactured home ~~and the reasonable cost of removing and disposing of a manufactured home~~ must be determined ~~by:~~ *as follows:*

(a) A ~~dealer licensed pursuant to chapter 489 of NRS who is~~ *agreed upon* ~~by a~~ *certified appraiser* ~~and~~ *who is selected jointly* by the landlord or his agent and the tenant ~~; or~~ *shall make the determination.*

(b) ~~If the landlord or his agent and the tenant cannot agree~~ *[pursuant to] for such a dealer, the landlord or his agent and the tenant may each select such a dealer. Each dealer so selected shall submit his appraisal of the fair market value of the manufactured home and his estimate of the reasonable cost of removing and disposing of the manufactured home to the Division, and the Administrator shall, based on the appraisals and estimates submitted, make the determination.*

~~(c)~~ *If there are insufficient* ~~licensed dealers available who are~~ *certified appraisers* *available* for the purposes of paragraph (a) ~~, for (b),~~ a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who is selected for this purpose by the Division ~~;~~ *shall make the determination.*

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~reasonable~~ cost of removing and disposing of a manufactured home pursuant to subsection 6.

Sec. 79. NRS 118B.177 is hereby amended to read as follows:

118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amounts required by subsections 3, 4 and 5.

2. At the time of providing notice of the closure of the park, a landlord shall provide to each tenant:

- (a) The address and telephone number of the Division;
- (b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and
- (c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

- (a) The cost of moving each tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or
- (b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, including fees for inspection, any deposits for connecting utilities ~~[-]~~ and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

5. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

- (a) May remove and dispose of the manufactured home; and
- (b) Shall pay to the tenant the fair market value of the manufactured home.

6. Written notice of any closure must be served timely on each:

(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

(b) Prospective tenant by:

(1) Handing each prospective tenant or his agent a copy of the written notice; and

(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.

7. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ *as follows:*

(a) A ~~[dealer licensed pursuant to chapter 489 of NRS who is]~~ ~~[agreed upon]~~ ~~[-]~~ *certified appraiser* ~~[and]~~ *who is selected jointly* by the landlord or his agent and the tenant ~~[-; or]~~ shall make the determination.

(b) ~~[[If the landlord or his agent and the tenant cannot agree] [pursuant to] for such a dealer, the landlord or his agent and the tenant may each select such a dealer. Each dealer so selected shall submit his appraisal of the fair market value of the manufactured home and his estimate of the reasonable cost of removing and disposing of the manufactured home to the Division, and the Administrator shall, based on the appraisals and estimates submitted, make the determination.~~

~~(c) If there are insufficient licensed dealers available who are certified appraisers for the purposes of paragraph (a), for (b), a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who is selected for this purpose by the Division shall make the determination.~~

8. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~reasonable~~ cost of removing and disposing of a manufactured home pursuant to subsection 5.

9. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 6.

10. If a landlord begins the process of closing a manufactured home park, he shall comply with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

11. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.

Sec. 80. NRS 118B.180 is hereby amended to read as follows:

118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;

(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;

(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location in this State or another state within 100 miles from the manufactured home park; or

(2) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park;

(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and

(f) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

5. If a tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

6. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.

7. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.

8. For the purposes of this section, the fair market value of a manufactured home ~~and the reasonable cost of removing and disposing of a manufactured home~~ must be determined ~~by~~ as follows:

(a) A ~~{dealer licensed pursuant to chapter 489 of NRS who is}~~ ~~{agreed upon}~~ ~~{a}~~ certified appraiser ~~{and}~~ who is selected jointly by the landlord or his agent and the tenant ~~{; or}~~ shall make the determination.

(b) ~~{If the landlord or his agent and the tenant cannot agree}~~ ~~{pursuant to}~~ ~~{on such a dealer, the landlord or his agent and the tenant may each select such a dealer. Each dealer so selected shall submit his appraisal of the fair market value of the manufactured home and his estimate of the reasonable cost of removing and disposing of the manufactured home to the Division, and the Administrator shall, based on the appraisals and estimates submitted, make the determination.}~~

~~{e)}~~ If there are insufficient ~~{licensed dealers available who are}~~ certified appraisers available for the purposes of paragraph (a) ~~{ or (b)}~~ a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who is selected for this purpose by the Division ~~{}~~ shall make the determination.

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~{reasonable}~~ cost of removing and disposing of a manufactured home pursuant to subsection 5.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 81. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amounts required by subsections 4, 5 and 6;

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and

(d) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and



(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

7. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

8. For the purposes of this section, the fair market value of a manufactured home ~~and the reasonable cost of removing and disposing of a manufactured home~~ must be determined ~~by:~~ as follows:

(a) A ~~dealer licensed pursuant to chapter 489 of NRS who is~~ ~~agreed upon~~ ~~or~~ ~~certified appraiser~~ ~~and~~ ~~who is selected jointly~~ by the landlord or his agent and the tenant ~~;~~ ~~or~~ shall make the determination.

(b) ~~If the landlord or his agent and the tenant cannot agree~~ ~~[pursuant to]~~ ~~for such a dealer, the landlord or his agent and the tenant may each select such a dealer. Each dealer so selected shall submit his appraisal of the fair market value of the manufactured home and his estimate of the reasonable cost of removing and disposing of the manufactured home to the Division,~~

~~and the Administrator shall, based on the appraisals and estimates submitted, make the determination.~~

~~(c)~~ If there are insufficient ~~licensed dealers available who are~~ certified appraisers available for the purposes of paragraph (a) ~~or (b)~~, a dealer licensed pursuant to chapter 489 of NRS or a certified appraiser who is selected for this purpose by the Division ~~or~~ shall make the determination.

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~reasonable~~ cost of removing and disposing of a manufactured home pursuant to subsection 6.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 82. Chapter 461 of NRS is hereby amended by adding thereto a new section to read as follows:

*No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter.*

Sec. 82.5. NRS 461.132 is hereby amended to read as follows:

461.132 "Manufactured building" ~~includes~~ means any modular building or any building which is constructed in whole or in substantial part using ~~one or more~~ modular components, but does not include a recreational park trailer.

Sec. 83. NRS 624.3015 is hereby amended to read as follows:

624.3015 The following acts, among others, constitute cause for disciplinary action under NRS 624.300:

1. Acting in the capacity of a contractor beyond the scope of the license.
2. Bidding to contract or contracting for a sum for one construction contract or project in excess of the limit placed on the license by the Board.
3. Knowingly bidding to contract or entering into a contract with a contractor for work in excess of his limit or beyond the scope of his license.
4. Knowingly entering into a contract with a contractor while that contractor is not licensed.
5. Constructing or repairing a mobile home, manufactured home , *manufactured building* or commercial coach ~~or~~ *or factory-built housing* unless the contractor:

(a) Is licensed pursuant to NRS 489.311; or

(b) Owns, leases or rents the mobile home, manufactured home ~~or~~ , *manufactured building*, commercial coach ~~or~~ *or factory-built housing*.

6. Engaging in any work or activities that require a contractor's license while the license is placed on inactive status pursuant to NRS 624.282.

Sec. 84. NRS 489.601 is hereby repealed.

Sec. 85. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

489.601 Special plates for movement of manufactured home, mobile home or commercial coach: Issuance; regulations; fees.

1. Except as otherwise provided in NRS 489.611, any manufacturer or dealer having an established place of business in this State, and owning or controlling any new or used manufactured home, mobile home or commercial coach, may move the manufactured home, mobile home or commercial coach for the purposes of display, maintenance, sale or exchange if there is displayed on it a special plate issued to the manufacturer or dealer as provided by this section.

2. Upon issuance of a manufacturer's or dealer's license pursuant to this chapter, the Division shall furnish to the licensee one or more special plates for use on manufactured homes, mobile homes and commercial coaches pursuant to subsection 1. Each plate must have displayed upon it the identification number which is assigned to the manufacturer or dealer and may, at the discretion of the Division, have a different letter or symbol on each plate. The plates may be used interchangeably on the manufactured homes, mobile homes or commercial coaches.

3. The Division shall, by regulation, determine the number of plates to which each manufacturer or dealer is entitled.

4. The Department shall supply the Division with the special plates.

5. There must be paid to the Division a fee of \$12 at the time application for a special plate is made, and by the Division to the Department, a fee of \$5.50 for each special plate.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Amendment No.100 to Senate Bill No. 89 removes all reference in the bill to new requirements on escrows involving transactions related to manufactured housing. It also removes references to the duties of a manufactured housing distributor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 127.

Bill read second time.

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

Amendment No. 489.

"SUMMARY—Exempts qualified persons or groups providing construction oversight services ~~as a project manager or construction manager~~ to a long-term recovery group from regulation as a contractor. (BDR 54-596)"

"AN ACT relating to contractors; exempting a qualified person or group providing construction oversight services ~~as a project manager or construction manager~~ to a long-term recovery group from the provisions governing the licensure and regulation of contractors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill adds ~~[project management and]~~ construction ~~[management]~~ *oversight* services related to recovery efforts after a disaster or emergency to the existing list of persons and activities that are exempt from licensing and regulation of contractors if those services are provided to a long-term recovery group by a qualified person.

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

Section 1. NRS 624.031 is hereby amended to read as follows:

624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. An officer of a court when acting within the scope of his office.

3. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

5. Any work to repair or maintain property the value of which is less than \$1,000, including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;

(d) The work is performed as a part of a larger project:

(1) The value of which is \$500 or more; or

(2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

6. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.

8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his use or occupancy and not intended for sale or lease.

10. ~~Professional~~ Construction oversight services ~~(in the form of project management or construction management)~~ provided to a long-term recovery group by a qualified person within a particular geographic area that is described in a proclamation of a state of emergency or declaration of disaster by the State or Federal Government, including, without limitation, pursuant to NRS 414.070. A long-term recovery group may reimburse such reasonable expenses as the qualified person incurs in providing construction oversight services to that group. Except as otherwise provided in this subsection, nothing in this subsection authorizes a person who is not a licensed contractor to perform the acts described in paragraphs (a) and (b) of subsection 1 of NRS 624.700. As used in this subsection, "long-term":

(a) "Construction oversight services" means the coordination and oversight of labor by volunteers.

(b) "Long-term recovery group" means a formal group of volunteers coordinating response and recovery efforts related to a state of emergency or disaster that is proclaimed or declared by the State or Federal Government.

(c) "Qualified person" means a person who possesses the abilities, education, experience, knowledge, skills and training that a long-term recovery group has identified as being necessary to provide construction oversight services for a project to be performed by that group.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

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

Thank you, Mr. President. This amendment represents language agreed upon by the original bill requester and the Contractors' Board regarding a statutory creation of a non-profit volunteer assistance entity in the times of natural disasters that can help without violating the provisions regarding being a licensed contractor to do some of this work.

It also removes an earlier discussed provision that would have created statutory liability for which nobody would have intended it to do.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 245.

Bill read second time.

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

Amendment No. 231.

"SUMMARY—Makes various changes relating to regional transportation commissions. (BDR 22-585)"

"AN ACT relating to regional transportation commissions; reorganizing provisions governing regional transportation commissions; providing that regional transportation commissions may authorize vending stands; authorizing ~~[regional transportation commissions]~~ certain governmental entities to collect fees for placing street banners within rights-of-way and public easements; authorizing certain regional transportation commissions to enter into certain hedge contracts for fuel; providing tort immunity to regional transportation commissions under certain circumstances; making various other changes to provisions relating to regional transportation commissions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Nevada has enacted the County Motor Vehicle Fuel Tax Law which, in part, authorizes certain counties to create regional transportation commissions and impose certain taxes on fuel. (Chapter 373 of NRS) Sections 2-41 and 64 of this bill reorganize the provisions relating to regional transportation commissions into chapter 277 of NRS to be known as the Regional Transportation Commission Act.

Sections 17 and 31 of this bill authorize the regional transportation commission in a county with a population of 400,000 or more (currently Clark County) to construct, install and maintain vending stands ~~near benches, shelters or transit stops.~~ in a building, terminal or parking facility owned, operated or leased by the commission. Such vending stands may provide any approved articles, food or beverages to passengers of public mass transportation within the county.

Sections 15 and 28 of this bill authorize regional transportation commissions, under certain circumstances, to place street banners ~~that advertise conventions, trade shows, cultural and sporting events or like gatherings~~ along public highways and within rights-of-way and public easements. Fees collected for placing street banners must be ~~used: (1) by the regional transportation commissions, to fund transportation projects or public mass transit operations; and (2) by~~ given to the governmental entities that own or control the public easements or rights-of-way where the street banners are placed, less an administrative fee given to the commissions to fund road repair and maintenance.

Section 34 of this bill authorizes a regional transportation commission to construct, modify, operate and maintain certain electrical and communications systems.

Section 38 of this bill authorizes a regional transportation commission that budgets \$1,000,000 or more in a fiscal year for the purchase of fuel to enter into a fuel hedge contract under certain circumstances.

~~[ Section 39 of this bill provides tort immunity to a regional transportation commission for damages occurring out of the construction, maintenance, operation, superintendence or management of a public transportation system if the system is operated or managed by a third party.]~~

Section 55 of this bill requires the governing body of each city that participates in a regional transportation commission to approve the dissolution of the commission, in addition to the governing body of the county. (NRS 373.120)

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

Section 1. Chapter 277 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this act.

Sec. 2. *Sections 2 to 41, inclusive, of this act may be known and cited as the Regional Transportation Commission Act.*

Sec. 3. *As used in sections 2 to 41, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 17, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Acquire" or "acquisition" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the United States of America, any agency, instrumentality or corporation thereof, the State of Nevada, any body corporate and politic therein, any corporation, or any person, the endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract, or other acquirement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act.*

Sec. 5. *"Board" means the board of county commissioners.*

Sec. 6. *"City" means an incorporated city.*

Sec. 7. *"Commission" means a regional transportation commission created pursuant to section 18 of this act.*

Sec. 8. *"Cost of the project," or any phrase of similar import, means all or any part designated by the board of the cost of any project, or interest therein, being acquired, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county from money available for use therefor or any other source, or advanced by any city with the approval of the county from money available therefor or from any other source, or advanced by the State of Nevada or the Federal Government, or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding 1 year and of any reserves for the payment of the principal of an interest on the bonds, the filing or recordation of instruments, the costs of*

*medium-term obligations, construction loans and other temporary loans not exceeding 10 years appertaining to the project and of the incidental expenses incurred in connection with such financing or loans, and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board.*

Sec. 9. *"Department" means the Department of Motor Vehicles.*

Sec. 10. *"Fixed guideway" means a mass transportation facility which uses and occupies a separate right-of-way or rails exclusively for public transportation, including, without limitation, fixed rail, automated guideway transit and exclusive facilities for buses.*

Sec. 11. *"Improve" or "improvement" means the extension, widening, lengthening, betterment, alteration, reconstruction, surfacing, resurfacing or other major improvement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act. The term includes renovation, reconditioning, patching, general maintenance and other minor repairs.*

Sec. 12. *"Project" means:*

1. *In a county whose population is 100,000 or more, street and highway construction, including, without limitation, the acquisition and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition and improvement of all types of property therefor.*

2. *In a county whose population is less than 100,000, street and highway construction, maintenance or repair, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including,*



without limitation, the acquisition, maintenance, repair and improvement of all types of property therefor.

Sec. 13. "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 14. "Public transit system" means a system employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.

Sec. 15. "Street banner" means a sign which a commission has authorized pursuant to section 28 of this act to be hung ~~along~~ :

(a) Along any street, avenue, boulevard, alley, public highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, within the jurisdiction of the commission,

(b) On any facility owned or leased by the commission, the county or any participating city, ~~and which promotes a convention, exposition, trade show, entertainment event, sporting event, cultural activity or like gathering.~~

Sec. 16. "Town" means an unincorporated town.

Sec. 17. "Vending stand" means:

1. Such buildings, ~~shelters, benches,~~ counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment as are necessary or customarily used for the vending of such articles or the provision of such services as may be approved by the commission and the governing body having care, custody and control of the property on which the vending stand is located;

2. Manual or coin-operated vending machines or similar devices for vending such articles, operated at ~~shelters and transit stops,~~ buildings, terminals and parking facilities owned or leased by the commission, even though no person is physically present on the premises except to service the machines;

3. A snack bar for the dispensing of foodstuffs and beverages; or

4. Portable shelters which can be disassembled and reassembled, and the equipment therein, used for the vending of approved articles, foodstuffs or beverages or the provision of approved services.

Sec. 18. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance create a regional transportation commission.

Sec. 19. 1. In counties whose population is 100,000 or more, the commission must be composed of representatives selected by the following entities from among their members:

(a) Two by the board.

(b) Two by the governing body of the largest city in the county.

(c) One by the governing body of each additional city in the county.

2. *In counties whose population is less than 100,000, the commission must be composed of representatives selected as follows:*

(a) *If the county contains three or more cities:*

(1) *Two by the board.*

(2) *One by the governing body of the largest city.*

(b) *If the county contains only two cities:*

(1) *Three by the board, at least one of whom is a representative of the public who is a resident of the county.*

(2) *One by the governing body of each city in the county.*

(c) *If the county contains only one city:*

(1) *Two by the board.*

(2) *One by the governing body of the city.*

(d) *If the county contains no city, the board shall select:*

(1) *Two members of the board; and*

(2) *One representative of the public, who is a resident of the largest town, if any, in the county.*

3. *In Carson City, the commission must be composed of representatives selected by the Board of Supervisors as follows:*

(a) *Two members of the Board of Supervisors, one of whom must be designated by the commission to serve as chairman of the commission.*

(b) *Three representatives of the city at large.*

4. *The first representatives must be selected within 30 days after passage of the ordinance creating the commission, and, except as otherwise provided in subsections 5, 6 and 7, must serve until the next ensuing December 31 of an even-numbered year. The representative of any city incorporated after passage of the ordinance must be selected within 30 days after the first meeting of the governing body, and, except as otherwise provided in subsection 7, must serve until the next ensuing December 31 of an even-numbered year. Their successors must serve for terms of 2 years, and vacancies must be filled for the unexpired term.*

5. *In Carson City:*

(a) *One representative of the commission who is a member of the Board of Supervisors and one representative of the commission who is a representative of the city at large must serve until the next ensuing December 31 of an even-numbered year; and*

(b) *One representative of the commission who is a member of the Board of Supervisors and two representatives of the commission who are representatives of the city at large must serve until the next ensuing December 31 of an odd-numbered year.*

6. *In counties whose population is 100,000 or more, but less than 400,000:*

(a) *One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an even-numbered year; and*

*(b) One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an odd-numbered year.*

*7. In counties whose population is 400,000 or more, the first representatives and the representative of any city incorporated after passage of the ordinance must serve until the next ensuing June 30 of an odd-numbered year.*

*Sec. 20. The commission shall provide for its organization and meetings.*

*Sec. 21. 1. A commission may be designated as a metropolitan planning organization pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.*

*2. If a commission is designated as a metropolitan planning organization, the commission shall carry out the duties prescribed by federal law for a metropolitan planning organization in addition to any other duties required by specific statute.*

*Sec. 22. 1. In any county in which a commission has been created by ordinance, the commission may:*

*(a) Receive and disburse federal funds;*

*(b) Submit project applications and programs of projects to federal agencies;*

*(c) Enter into formal agreements concerning projects with federal agencies; and*

*(d) Conduct public hearings and certify that such hearings were conducted.*

*2. If a commission receives federal funds for any project, the commission shall comply with any applicable federal law in relation to providing goods or services related to such project.*

*Sec. 23. The commission may establish a fund consisting of contributions from private sources, the State or the county and cities and towns within the jurisdiction of the commission for the purpose of matching federal money from any federal source.*

*Sec. 24. A commission may:*

*1. Acquire and own both real and personal property.*

*2. Exercise the power of eminent domain, if the city or county which has jurisdiction over the property approves, for the acquisition, construction, repair or maintenance of public roads, or for any other purpose related to public mass transportation.*

*3. Sell, lease or convey or otherwise dispose of rights, interests or properties.*

*4. Adopt regulations for:*

*(a) Financing eligible activities; and*

*(b) The operation of systems or services provided by the commission.*

*Sec. 25. A commission may:*

*1. Sue and be sued.*

2. Prepare and approve budgets for the regional street and highway fund, the public transit fund and money it receives from any source.

3. Adopt bylaws for the administration of its affairs and rules for the administration and operation of facilities under its control.

4. Conduct studies, develop plans and conduct public hearings to establish and approve short-range and regional plans for transportation.

5. Purchase insurance or establish a reserve or fund for self-insurance, or adopt any combination of these, to insure against loss by reason of:

(a) Damages resulting from fire, theft, accident or other casualty; or

(b) The commission's liability for other damages to persons or property which occur in the construction or operation of facilities or equipment under its control or in the conduct of its activities.

Sec. 26. A commission may:

1. Provide for and maintain such security in operations as is necessary for the protection of persons and property under its jurisdiction and control.

2. Employ professional, technical, clerical and other personnel necessary to carry out the provisions of sections 2 to 41, inclusive, of this act.

3. Establish a fine for a passenger who refuses to pay or otherwise fails to pay the proper fare to ride on the public transit system established and operated by the commission. If the commission establishes such a fine, the commission may establish procedures that provide for the issuance and collection of the fine.

Sec. 27. 1. A commission may:

(a) Operate a system of public transportation to the exclusion of any other publicly owned system of transportation within its area of jurisdiction.

(b) Use streets, roads, highways and other public rights-of-way for public transportation.

(c) Enter into agreements for the joint use of facilities, installations and properties and the joint exercise of statutory powers.

(d) Prohibit the use of any facility, installation or property ~~not~~ owned, operated or leased by the commission, including, without limitation, a transit stop or bus turnout, by any person other than the commission or its agents.

(e) Enter into contracts, leases and agreements with and accept grants and loans from federal and state agencies, counties, cities, towns, other political subdivisions, public or private corporations and other persons, and may perform all acts necessary for the full exercise of the powers vested in the commission.

2. The powers and duties of a commission set forth in sections 2 to 41, inclusive, of this act, do not apply to any monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695.

3. As used in this section, "bus turnout" means a fixed area that is:

(a) Adjacent or appurtenant to, or within a reasonable proximity of, a public highway; and

(b) To be occupied exclusively by buses in receiving or discharging passengers.

Sec. 28. 1. A commission may authorize street banners to be placed within the jurisdiction of the commission:

(a) Along any public highway.

(b) Except as otherwise provided in subsections 2 and 3, on a facility owned or leased by the commission, the county or any participating city, or within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(1) The facility, public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(2) The street banners may be located safely on the facility or within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. ~~Before the commission or any person authorized by the commission may place any street banner within any public easement or right-of-way, if the commission and the governmental entity that owns or controls the a facility, public easement or right-of-way shall execute an interlocal or cooperative agreement that authorizes the placement of the street banners~~, the commission may place street banners on the facility or within the public easement or right-of-way.

3. If the commission or any person authorized by the commission intends to place any street banner within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to place the street banner within the public easement at least 30 days before such placement; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the street banner within the public easement.

4. ~~No board, governing body or town board may:~~

~~(a) Provide for the placement of street banners except with the approval of or at the request of the commission; or~~

~~(b) Adopt any ordinance, regulation or plan, enter into or approve any franchise, contract or agreement or take any other action that prohibits or unreasonably restricts the commission from placing street banners.~~

~~5. A commission may charge a fee to place a street banner. Any such fee collected by the commission must be used as follows:~~

~~(a) At least 50 percent of the fees collected must be used by the commission to fund transportation projects or public mass transit operations.~~

~~(b) Any fees not allocated pursuant to paragraph (a) must be used by paid to the governmental entity that owns or controls the facility, public~~

easement or right-of-way where the street banner is placed. The governmental entity shall pay to the commission an administrative fee in an amount set forth in the agreement required pursuant to subsection 2. Any administrative fee paid to the commission pursuant to this subsection must be used by the commission to fund road improvement and maintenance.

Sec. 29. 1. A commission, a county whose population is less than 100,000 or a city within such a county may establish or operate a public transit system consisting of:

- (a) Regular routes and fixed schedules to serve the public;
- (b) Nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170, if the transportation is available upon request and without regard to regular routes or fixed schedules;
- (c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or
- (d) In a county whose population is less than 100,000 or a city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

2. A commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

(a) Minor deviations from the regular routes and fixed schedules required by paragraph (a) of subsection 1 on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons other than those specified in paragraph (b), (c) or (d) of subsection 1 upon request without regard to regular routes or fixed schedules, if the service is provided by a common motor carrier which has a certificate of public convenience and necessity issued by the Nevada Transportation Authority pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the Nevada Transportation Authority for a fully regulated carrier.

4. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a commission may utilize a turnkey procurement process to select a person to design, build, operate and maintain, or any combination thereof, a fixed guideway system, including, without limitation, any minimum operable segment thereof. The commission shall determine whether to utilize turnkey procurement for a fixed guideway project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall evaluate whether turnkey procurement is the most cost-effective method of constructing the project on schedule and in satisfaction of its transportation objectives.

5. Notwithstanding the provisions of chapter 332 of NRS, a commission may utilize a competitive negotiation procurement process to procure rolling

stock for a fixed guideway project, rolling stock for a public transit system, facilities and any other equipment that is related to public transportation. The award of a contract under such a process must be made to the person whose proposal is determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

6. If a commission develops a fixed guideway project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway systems set forth in 49 C.F.R. Part 659.

7. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Nevada Transportation Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Nevada Transportation Authority.

(b) "Minimum operable segment" means the shortest portion of a fixed guideway system that is technically capable of providing viable public transportation between two end points.

(c) "Turnkey procurement" means a competitive procurement process by which a person is selected by a commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a fixed guideway system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.

Sec. 30. 1. A commission may construct, convert, improve, equip and maintain parking facilities or parking spaces for use by the general public and public employees. Such facilities or spaces must be owned and operated by the commission or its agents.

2. The commission may fix and charge reasonable fees for the use of any such parking facilities or spaces.

3. The commission may enter into a contract, lease or other arrangement to provide exclusive parking in designated spaces at any parking facility owned, leased or operated by the commission.

Sec. 31. 1. In a county whose population is 400,000 or more, the commission may provide for the construction, installation and maintenance of vending stands for passengers of public mass transportation ~~+~~ in any building, terminal or parking facility owned, operated or leased by the commission.

2. The provisions of NRS 426.630 to 426.720, inclusive, do not apply to a vending stand constructed, installed or maintained pursuant to this section.

Sec. 32. In a county whose population is 400,000 or more:

1. The commission shall provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.

2. *In carrying out its duties pursuant to subsection 1, the commission may displace or limit competition in the construction, installation and maintenance of such benches, shelters and transit stops. The commission may:*

*(a) Provide those services on an exclusive basis or adopt a regulatory scheme for controlling the provision of those services; or*

*(b) Grant an exclusive franchise to any person to provide those services.*

3. *Subject to the provisions of subsections 4 and 5, the commission or any person who is authorized by the commission to provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation may locate such benches, shelters and transit stops within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:*

*(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and*

*(b) The benches, shelters and transit stops may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.*

4. *Before the commission or any person authorized by the commission may construct or install any benches, shelters and transit stops within any public easement or right-of-way, the commission and the governmental entity that owns or controls the public easement or right-of-way shall execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the benches, shelters and transit stops within the public easement or right-of-way.*

5. *If the commission or any person authorized by the commission intends to construct or install any benches, shelters or transit stops within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:*

*(a) Provide the governing body of the association with written notice of the intent to construct or install the benches, shelters or transit stops within the public easement at least 30 days before such construction or installation begins; and*

*(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the benches, shelters or transit stops within the public easement.*

6. *The commission shall post on each bench, within each shelter and near each transit stop a notice that provides a telephone number that a person may use to report damage to the benches, shelters or transit stops.*

7. *No board, governing body or town board may:*



(a) Provide for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation except with the approval of or at the request of the commission; or

(b) Adopt any ordinance, regulation or plan, enter into or approve any franchise, contract or agreement or take any other action that prohibits or unreasonably restricts the commission from providing for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation.

Sec. 33. 1. In a county whose population is 400,000 or more, the commission shall establish an advisory committee to provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county. The membership of the advisory committee must consist of:

(a) Two members of the general public from each city within the county who are appointed by the governing body of that city; and

(b) Six members of the general public appointed by the commission.

2. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

3. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

4. The advisory committee shall meet at least six times annually.

5. At its first meeting and annually thereafter, the advisory committee shall elect a chairman and vice chairman from among its members.

6. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

Sec. 34. 1. Subject to the provisions of subsections 2 ~~and 4,~~ 4 and 5, the commission may construct, modify, operate and maintain electrical and communication systems, including, without limitation, traffic signalization or messaging systems, and related infrastructure that are necessary to carry out the commission's duties set forth in sections 2 to 41, inclusive, of this act within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(b) The electrical and communication systems and related infrastructure may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. ~~Before the commission or any person authorized by the commission may construct or install any electrical and communication systems and related infrastructure within any public easement or right-of-way,~~ If the commission and the governmental entity that owns or controls ~~the~~ a public

easement or right-of-way ~~shall~~ execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the electrical and communication systems and related infrastructure within the public easement or right-of-way. ~~f-7~~, the commission or any person authorized by the commission may construct or install any electrical and communication systems and related infrastructure within the public easement or right-of-way.

3. If the commission or any person authorized by the commission intends to construct or install any electrical or communication systems or related infrastructure within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to construct or install the electrical or communication systems or related infrastructure within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the electrical or communication systems or related infrastructure within the public easement.

4. The commission may require any person who causes damage to an electrical or communication system or related infrastructure to:

(a) Reimburse the commission for the cost of repairing the damage to the electrical or communication system or related infrastructure; or

(b) Repair the damage to the electrical or communication system or related infrastructure to the satisfaction of the commission.

5. A commission that modifies, operates and maintains electrical and communication systems pursuant to this section is not a public utility and nothing in this section authorizes a commission to construct or maintain any telecommunications system, including, without limitation, a tower, pole or similar structure used to provide telecommunications services.

Sec. 35. 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to section 25 of this act may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of sections 2 to 41, inclusive, of this act, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board may, after the enactment of an ordinance as authorized by NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, issue revenue

bonds and other revenue securities, on the behalf and in the name of the county:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065;

(b) Which must not be general obligations of the county or a charge on any real estate therein; and

(c) Which may be secured as to principal and interest by a pledge authorized by chapter 373 of NRS of the receipts from the motor vehicle fuel taxes designated in chapter 373 of NRS, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county is authorized to issue bonds without the necessity of their being authorized at any election in such manner and with such terms as provided in sections 2 to 41, inclusive, of this act.

4. Subject to the provisions of sections 2 to 41, inclusive, of this act, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county securities, and in connection with the undertaking or project, the board may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the motor vehicle fuel taxes designated in chapter 373 of NRS except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act,

➔ all bonds and other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act must be payable solely from the proceeds of motor vehicle fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by chapter 373 of NRS. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to paragraphs (a) and (b) of subsection 1 of NRS 373.065 may be used by the county for the payment of securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act and may be pledged therefor. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any

*streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance authorizing their issuance and any other instrument appertaining to the securities.*

*7. The ordinance authorizing the issuance of any bond or other revenue security hereunder must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified.*

*Sec. 36. In counties having a population of less than 100,000, the commission shall submit an annual report to the Department for the fiscal year showing the amount of receipts from the county motor vehicle fuel tax imposed pursuant to chapter 373 of NRS and the nature of the expenditures for each project.*

*Sec. 37. 1. In a county whose population is 400,000 or more, the commission shall cooperate with the local air pollution control board and the regional planning coalition in the county in which it is located to:*

*(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.*

*(b) Establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.*

*2. Before adopting or amending a plan, policy or program, the commission must:*

*(a) Consult with the local air pollution control board and the regional planning coalition; and*

*(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:*

*(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional planning coalition; and*

*(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.*

*3. As used in this section:*

*(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.*

(b) "Regional planning coalition" has the meaning ascribed to it in NRS 278.0172.

Sec. 38. 1. A commission that budgets \$1,000,000 or more in any fiscal year for the purchase of fuel may enter into an agreement for an exchange of cash flow based on the price of fuel as provided in this section if it finds that such an agreement would be in the best interest of the commission.

2. A commission may only enter into an agreement to exchange cash flows payments based on the price of fuel only if:

(a) The long-term unsecured debt obligations of the person with whom the commission enters the agreement are rated "A" or better by a nationally recognized rating agency; or

(b) The obligations pursuant to the agreement of the person with whom the Commission enters the agreement are guaranteed by a person whose long-term debt obligations are rated "A" or better by a nationally recognized rating agency.

3. A commission may agree, with respect to a fuel that the commission has budgeted to purchase in a fiscal year:

(a) To pay sums based on a fixed price or prices for that fuel, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects to acquire over a period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a variable price for that fuel determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the sums payable by the commission;

(b) To pay sums based on a variable price or prices for that fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of fuel that does not exceed the amount of the fuel the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a fixed price or prices for that fuel on the same amount of fuel as the amount used in determining the sums payable by the commission; or

(c) To pay sums based on a variable price or prices for the fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a different variable price for that fuel determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the amount payable by the commission.

4. The payments to be made for any fiscal year must be based on the amounts of the fuel that the commission expects to buy or sell during that

*fiscal year and must be scheduled to be paid within an 18-month period that begins 3 months before and ends 3 months after the fiscal year.*

5. *A certification by the commission or its chief financial officer as to any determination made under this section or as to the amount of fuel that a commission expects to buy or sell during the term of an agreement entered into pursuant to this section, or during all or any part of any fiscal year that is wholly or partially included in the term of an agreement entered into pursuant to this section, is conclusive, absent fraud, for the purpose of determining whether the commission is authorized to enter into an agreement under this section.*

6. *The term of an agreement entered into pursuant to this section may not exceed 63 months.*

7. *An agreement entered into pursuant to this section is not:*

*(a) A debt or indebtedness of the commission for the purposes of any limitation upon the indebtedness of the commission or any requirement for an election with regard to the issuance of securities that is applicable to the commission.*

*(b) Subject to the limitations of subsection 1 of NRS 354.626.*

8. *A commission which has entered into an agreement pursuant to this section may treat the price it pays or expects to pay for fuel after giving effect to the agreement for the purpose of calculating:*

*(a) Rates and charges of a revenue-producing enterprise whose revenues are pledged to or used to pay municipal securities;*

*(b) Statutory requirements concerning revenue coverage that are applicable to municipal securities; and*

*(c) Any other amounts which are based upon the amounts to be paid for fuel.*

9. *Subject to covenants applicable to municipal securities to which any revenues of the commission or county are pledged, any payments required to be made by the commission under an agreement may be made from money that could be used to pay for the fuel or from any other legally available source.*

10. *The powers granted by this section are in addition to all other powers of any commission, and nothing herein limits the exercise of a power a commission otherwise has.*

~~Sec. 39. [No action or suit shall be brought or maintained against any commission, or its officers, agents, servants or employees for damages arising from tort occurring in or about the construction, maintenance, operation, superintendence or management of a public transportation system, facilities or equipment under the control of a commission or in the conduct of its activities, at such times as such system, facilities or equipment may be leased to, operated by, or otherwise under the control or management of any individual or private corporation operating or managing the same for private gain. Nothing in this section shall relieve any commission of liability for such damages if the system, facilities or~~

~~equipment is operated or managed by the commission.] (Deleted by amendment.)~~

Sec. 40. ~~In addition to the general and special powers conferred by this chapter,]~~ sections 2 to 41, inclusive, of this act, a commission is authorized to exercise such powers as are necessary.

Sec. 41. ~~[This chapter]~~ Sections 2 to 41, inclusive, of this act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this State and other states and of the government of the United States having to do with the subject of transportation.

Sec. 42. NRS 244.187 is hereby amended to read as follows:

244.187 A board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the county and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that county by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that county by an agency of the State.
6. Concessions on, over or under property owned or leased by the county.
7. Operation of landfills.
8. Except as otherwise provided in ~~[NRS 373.1183,]~~ section 32 of this act, construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 43. NRS 268.081 is hereby amended to read as follows:

268.081 The governing body of an incorporated city may, to provide adequate, economical and efficient services to the inhabitants of the city and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that city by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that city by an agency of the State.
6. Concessions on, over or under property owned or leased by the city.
7. Operation of landfills.

8. Search and rescue.

9. Inspection required by any city ordinance otherwise authorized by law.

10. Except as otherwise provided in ~~[NRS 373.1183,]~~ *section 32 of this act*, construction and maintenance of benches and shelters for passengers of public mass transportation.

11. Any other service demanded by the inhabitants of the city which the city itself is otherwise authorized by law to provide.

Sec. 44. NRS 269.128 is hereby amended to read as follows:

269.128 A town board or board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the town and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.

2. Taxicabs and other public transportation, unless regulated in that town by an agency of the State.

3. Collection and disposal of garbage and other waste.

4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.

5. Water and sewage treatment, unless regulated in that town by an agency of the State.

6. Concessions on, over or under property owned or leased by the town.

7. Operation of landfills.

8. Except as otherwise provided in ~~[NRS 373.1183,]~~ *section 32 of this act*, construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 45. NRS 278.02584 is hereby amended to read as follows:

278.02584 1. The regional planning coalition shall cooperate with the local air pollution control board and the regional transportation commission in the county in which it is located to:

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) In addition to the comprehensive regional policy plan required by NRS 278.02528, establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, the regional planning coalition shall:

(a) Consult with the local air pollution control board and the regional transportation commission; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:



(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional transportation commission; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. If the program for control of air pollution established and administered by the local air pollution control board includes measures for the control of traffic or transportation, the regional planning coalition shall consider recommending the use of alternative land use designations, densities and design standards to meet local and regional needs with respect to transportation.

4. Not more than once every 2 years, the regional planning coalition shall:

(a) Prepare a report that summarizes the policies related to land use, transportation and air quality which it has adopted and which the local air pollution control board and the regional transportation commission have adopted; and

(b) Submit a copy of the report to the:

(1) County clerk of the appropriate county;

(2) Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(3) Division of State Lands of the State Department of Conservation and Natural Resources; and

(4) Department of Transportation.

5. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional transportation commission" means a regional transportation commission created and organized in accordance with ~~chapter 373 of NRS.~~ *sections 2 to 41, inclusive, of this act.*

Sec. 46. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, is guilty of a misdemeanor, and upon conviction thereof ceases to hold his office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

↪ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

*(l) An agreement authorized pursuant to section 38 of this act.*

Sec. 47. NRS 365.545 is hereby amended to read as follows:

365.545 1. The proceeds of all taxes on fuel for jet or turbine-powered aircraft imposed pursuant to the provisions of NRS 365.170 or 365.203 must be deposited in the Account for Taxes on Fuel for Jet or Turbine-Powered Aircraft in the State General Fund and must be allocated monthly by the Department to the:

(a) Governmental entity which operates the airport at which the tax was collected, if the airport is operated by a governmental entity;

(b) Governmental entity which owns the airport at which the tax was collected, if the airport is owned but not operated by a governmental entity;

or

(c) County in which is located the airport at which the tax was collected, if the airport is neither owned nor operated by a governmental entity.

2. Except as otherwise provided in subsection 3, the money allocated pursuant to subsection 1:

(a) Must be used by the governmental entity receiving it to pay the cost of:

(1) Transportation projects related to airports, including access on the ground to airports;

(2) The payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1);

(3) Promoting the use of an airport located in a county whose population is less than 400,000, including, without limitation, increasing the number and availability of flights at the airport;

(4) Contributing money to the Trust Fund for Aviation created by NRS 494.048; or

(5) Any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

3. Any money allocated pursuant to subsection 1 to a county whose population is 400,000 or more and in which a regional transportation commission has been created pursuant to ~~chapter 373 of NRS,~~ *sections 2 to 41, inclusive, of this act*, from the proceeds of the tax imposed pursuant to paragraph (a) of subsection 2 of NRS 365.170 on fuel for jet or turbine-powered aircraft sold, distributed or used in that county, excluding the proceeds of any tax imposed pursuant to NRS 365.203, may, in addition to the uses authorized pursuant to subsection 2, be allocated by the county to that regional transportation commission. The money allocated pursuant to this subsection to a regional transportation commission:

(a) Must be used by the regional transportation commission:

(1) To pay the cost of transportation projects described in a regional plan for transportation established by that regional transportation commission pursuant to ~~[NRS 373.1161]~~ *section 25 of this act*;

(2) For the payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1); or

(3) For any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued by the county at the request of the regional transportation commission to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 48. NRS 365.550 is hereby amended to read as follows:

365.550 1. Except as otherwise provided in subsection 2, the receipts of the tax levied pursuant to NRS 365.180 must be allocated monthly by the Department to the counties using the following formula:

(a) Determine the average monthly amount each county received in the Fiscal Year ending on June 30, 2003, and allocate to each county that amount, or if the total amount to be allocated is less than that amount, allocate to each county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003;

(b) If the total amount to be allocated is greater than the average monthly amount all counties received in the Fiscal Year ending on June 30, 2003, determine for each county an amount from the total amount to be allocated using the following formula:

(1) Multiply the county's percentage share of the total state population by 2;

(2) Add the percentage determined pursuant to subparagraph (1) to the county's percentage share of total mileage of improved roads or streets maintained by the county or an incorporated city located within the county;

(3) Divide the sum of the percentages determined pursuant to subparagraph (2) by 3; and

(4) Multiply the total amount to be allocated by the percentage determined pursuant to subparagraph (3);

(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (a) from the amount determined pursuant to paragraph (b); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(d) Identify each county for which the amount determined pursuant to paragraph (b) is less than or equal to the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(e) Subtract the amount determined pursuant to subparagraph (2) of paragraph (d) from the amount determined pursuant to subparagraph (2) of paragraph (c);

(f) Divide the amount determined pursuant to subparagraph (1) of paragraph (c) for each county by the sum determined pursuant to subparagraph (2) of paragraph (c) for all counties to determine each county's percentage share of the sum determined pursuant to subparagraph (2) of paragraph (c); and

(g) In addition to the allocation made pursuant to paragraph (a), allocate to each county that is identified pursuant to paragraph (c) a percentage of the total amount determined pursuant to paragraph (e) that is equal to the percentage determined pursuant to paragraph (f).

2. At the end of each fiscal year, the Department shall:

(a) Determine the total amount to be allocated to all counties pursuant to subsection 1 for the current fiscal year; and

(b) Use the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to each county an amount determined pursuant to subsection 3.

3. If the total amount to be allocated to all the counties determined pursuant to paragraph (a) of subsection 2:

(a) Does not exceed the total amount that was received by all the counties for the Fiscal Year ending on June 30, 2003, the Department shall adjust the final monthly allocation to be made to each county so that each county is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003.

(b) Exceeds the total amount that was received by all counties for the Fiscal Year ending on June 30, 2003, the Department shall:

(1) Identify the total amount allocated to each county for the Fiscal Year ending on June 30, 2003, and the total amount for the current fiscal year determined pursuant to paragraph (a) of subsection 2;

(2) Apply the formula set forth in paragraph (b) of subsection 1 using the amounts in subparagraph (1), instead of the monthly amounts, to determine the total allocations to be made to the counties for the current fiscal year; and

(3) Adjust the final monthly allocation to be made to each county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to subparagraph (2).

4. Of the money allocated to each county pursuant to the provisions of subsections 1, 2 and 3:

(a) An amount equal to that part of the allocation which represents 1.25 cents of the tax per gallon must be used exclusively for the service and redemption of revenue bonds issued pursuant to ~~chapter 373 of NRS,~~ *section 35 of this act*, for the construction, maintenance and repair of county roads, and for the purchase of equipment for that construction, maintenance and repair, under the direction of the boards of county commissioners of the several counties, and must not be used to defray expenses of administration.

(b) An amount equal to that part of the allocation which represents 2.35 cents of the tax per gallon must be allocated to the county, if there are no incorporated cities in the county, or, if there is at least one incorporated city in the county, allocated monthly by the Department to the county and each incorporated city in the county using, except as otherwise provided in paragraph (c), the following formula:

(1) Determine the average monthly amount the county and each incorporated city in the county received in the fiscal year ending on June 30, 2005, and allocate to the county and each incorporated city in the county that amount, or if the total amount to be allocated is less than that amount, allocate to the county and each incorporated city in the county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) If the total amount to be allocated is greater than the average monthly amount the county and all incorporated cities within the county received in the fiscal year ending on June 30, 2005, determine for the county and each incorporated city in the county an amount from the total amount to be allocated using the following formula:

(I) One-fourth in proportion to total area.

(II) One-fourth in proportion to population.

(III) One-fourth in proportion to the total mileage of improved roads and streets maintained by the county or incorporated city in the county, as applicable.

(IV) One-fourth in proportion to vehicle miles of travel on improved roads and streets maintained by the county or incorporated city in the county, as applicable.

↪ For the purpose of applying the formula, the area of the county excludes the area included in any incorporated city.

(3) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was greater than the amount allocated to the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (1) from the amount determined pursuant to subparagraph (2); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(4) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was less than or equal to the amount determined for the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (2) from the amount determined pursuant to subparagraph (1); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(5) Subtract the amount determined pursuant to sub-subparagraph (II) of subparagraph (4) from the amount determined pursuant to sub-subparagraph (II) of subparagraph (3).

(6) Divide the amount determined pursuant to sub-subparagraph (I) of subparagraph (3) for the county and each incorporated city in the county by the sum determined pursuant to sub-subparagraph (II) of subparagraph (3) for the county and all incorporated cities in the county to determine the county's and each incorporated city's percentage share of the sum determined pursuant to sub-subparagraph (II) of subparagraph (3).

(7) In addition to the allocation made pursuant to subparagraph (1), allocate to the county and each incorporated city in the county that is identified pursuant to subparagraph (3) a percentage of the total amount determined pursuant to subparagraph (5) that is equal to the percentage determined pursuant to subparagraph (6).

(c) At the end of each fiscal year, the Department shall:

(1) Determine the total amount to be allocated to a county and each incorporated city within the county pursuant to paragraph (b) for the current fiscal year; and

(2) Use the amount equal to that part of the allocation which represents 2.35 cents per gallon of the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to a county and each incorporated city in the county an amount determined pursuant to paragraph (d).

(d) If the total amount to be allocated to a county and all incorporated cities in the county determined pursuant to subparagraph (1) of paragraph (c):

(1) Does not exceed the total amount that was received by the county and all the incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall adjust the final monthly amount allocated to the county and each incorporated city in the county so that the county and each incorporated city is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) Exceeds the total amount that was received by the county and all incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall:

(I) Identify the total amount allocated to the county and each incorporated city in the county for the fiscal year ending on June 30, 2005, and the total amount for the current fiscal year determined pursuant to subparagraph (1) of paragraph (c);

(II) Apply the formula set forth in subparagraph (2) of paragraph (b) using the amounts in sub-subparagraph (I), instead of the monthly amounts, to determine the total allocations to be made to the county and the incorporated cities in the county for the current fiscal year; and

(III) Adjust the final monthly allocation to be made to the county and each incorporated city in the county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to sub-subparagraph (II).

5. The amount allocated to the counties and incorporated cities pursuant to subsections 1 to 4, inclusive, must be remitted monthly. The State Controller shall draw his warrants payable to the county treasurer of each of the several counties and the city treasurer of each of the several incorporated cities, as applicable, and the State Treasurer shall pay the warrants out of the proceeds of the tax levied pursuant to NRS 365.180.

6. The formula computations must be made as of July 1 of each year by the Department of Motor Vehicles, based on estimates which must be furnished by the Department of Transportation and, if applicable, any adjustments to the estimates determined to be appropriate by the Committee pursuant to subsection 10. Except as otherwise provided in subsection 10, the determination made by the Department of Motor Vehicles is conclusive.

7. The Department of Transportation shall complete:

(a) The estimates of the total mileage of improved roads or streets maintained by each county and incorporated city on or before August 31 of each year.

(b) A physical audit of the information submitted by each county and incorporated city pursuant to subsection 8 at least once every 10 years.

8. Each county and incorporated city shall, not later than March 1 of each year, submit a list to the Department of Transportation setting forth:

(a) Each improved road or street that is maintained by the county or city; and

(b) The beginning and ending points and the total mileage of each of those improved roads or streets.

↪ Each county and incorporated city shall, at least 10 days before the list is submitted to the Department of Transportation, hold a public hearing to identify and determine the improved roads and streets maintained by the county or city.

9. If a county or incorporated city does not agree with the estimates prepared by the Department of Transportation pursuant to subsection 7, the county or incorporated city may request that the Committee examine the estimates and recommend an adjustment to the estimates. Such a request must be submitted to the Committee not later than October 15.



10. The Committee shall hold a public hearing and review any request it receives pursuant to subsection 9 and determine whether an adjustment to the estimates is appropriate on or before December 31 of the year it receives a request pursuant to subsection 9. Any determination made by the Committee pursuant to this subsection is conclusive.

11. The Committee shall monitor the fiscal impact of the formula set forth in this section on counties and incorporated cities. Biennially, the Committee shall prepare a report concerning its findings and recommendations regarding that fiscal impact and submit the report on or before February 15 of each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Committees on Taxation of the Nevada Legislature for their review.

12. As used in this section:

(a) "Committee" means the Committee on Local Government Finance created pursuant to NRS 354.105.

(b) "Construction, maintenance and repair" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a county or city road and is necessary for the safe and efficient use of that road, including, without limitation:

- (1) Grades and regrades;
- (2) Graveling, oiling, surfacing, macadamizing and paving;
- (3) Sweeping, cleaning and sanding roads and removing snow from a road;
- (4) Crosswalks and sidewalks;
- (5) Culverts, catch basins, drains, sewers and manholes;
- (6) Inlets and outlets;
- (7) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;
- (8) Artificial lights and lighting equipment, parkways, control of vegetation and sprinkling facilities;
- (9) Rights-of-way;
- (10) Grade and traffic separators;
- (11) Fences, cattle guards and other devices to control access to a county or city road;
- (12) Signs and devices for the control of traffic; and
- (13) Facilities for personnel and the storage of equipment used to construct, maintain or repair a county or city road.

(c) "Improved road or street" means a road or street that is, at least:

- (1) Aligned and graded to allow reasonably convenient use by a motor vehicle; and
- (2) Drained sufficiently by a longitudinal and transverse drainage system to prevent serious impairment of the road or street by surface water.

(d) "Total mileage of an improved road or street" means the total mileage of the length of an improved road or street, without regard to the width of that road or street or the number of lanes it has for vehicular traffic.

Sec. 49. NRS 373.023 is hereby amended to read as follows:

373.023 "Commission" means ~~the~~ a regional transportation commission ~~+~~ created pursuant to section 18 of this act.

Sec. 50. NRS 373.030 is hereby amended to read as follows:

373.030 1. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance ~~+~~

~~(a) Create a regional transportation commission; and~~

~~(b) Impose~~ impose a tax on motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount not to exceed 9 cents per gallon.

2. A tax imposed pursuant to this section is in addition to other motor vehicle fuel taxes imposed pursuant to the provisions of chapter 365 of NRS.

3. As used in this section:

(a) "Aviation fuel" has the meaning ascribed to it in NRS 365.015.

(b) "Leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

Sec. 51. NRS 373.060 is hereby amended to read as follows:

373.060 Any ordinance enacted pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 must provide that the county motor vehicle fuel tax will be imposed on the first day of the second calendar month following the enactment of the ordinance.

Sec. 52. NRS 373.065 is hereby amended to read as follows:

373.065 1. Except as otherwise provided in this section, in a county whose population is less than 400,000:

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.180 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.180 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.190 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.190 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.192 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.192 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(d) If the board imposes a tax pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030, the board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

2. A board may not adopt any ordinance authorized by this section unless:

(a) In a county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board first:

- (1) Imposes a tax pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; or
- (2) Submits to the voters of the county at a general or special election the question of whether to impose a tax pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; and

(b) A question concerning the imposition of the tax pursuant to this section is first approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. The Committee on Local Government Finance shall annually provide to each city clerk, county clerk and district attorney in this State forms for submitting a question to the registered voters of a county pursuant to this paragraph. Any question submitted to the registered voters of a county pursuant to this paragraph must be in the form most recently provided by the Committee on Local Government Finance.

3. An ordinance adopted pursuant to this section in a county whose population is less than 100,000:

- (a) Must be reapproved, in addition to the approval required by paragraph (b) of subsection 2, at least once every 8 years by a majority of the registered voters of the county voting on the question which the board may submit to the voters at any general election; and
- (b) Expires by limitation no later than the last day of the 8th calendar year following the calendar year in which the ordinance was:
  - (1) Approved in accordance with paragraph (b) of subsection 2; or
  - (2) Most recently reapproved in accordance with this subsection,
 ↪ whichever occurs later.

4. Any ordinance authorized by this section may be adopted in combination with any other ordinance authorized by this section. Each tax imposed pursuant to this section is in addition to any other motor vehicle fuel taxes imposed pursuant to the provisions of this chapter and chapter 365 of NRS. Upon adoption of an ordinance authorized by this section, no further action by the board is necessary to effectuate the annual increases before the ordinance expires by limitation.

5. Any ordinance adopted pursuant to this section must:

- (a) Become effective on the first day of the first calendar quarter beginning not less than 90 days after the adoption of the ordinance; and
- (b) If the board has created a ~~regional transportation~~ commission in the county, require the commission:
  - (1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:
    - (I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

6. Any ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.180 which becomes effective after the adoption of that ordinance.

(b) Paragraph (b) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.190 which becomes effective after the adoption of that ordinance.

(c) Paragraph (c) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.192 which becomes effective after the adoption of that ordinance.

(d) Paragraph (d) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030; and

(2) Expire by limitation no later than the effective date of any subsequent ordinance increasing or decreasing the amount of the tax imposed in that county pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030.

Sec. 53. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of the county motor vehicle fuel tax:

1. Imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter ~~and sections 2 to 41, inclusive, of this act.~~ After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 54. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 55. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county motor vehicle fuel tax ordinance shall be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues, pursuant to this chapter, have been discharged in full, but the board, *with the approval of the governing body of each participating city*, may at any time dissolve the commission and provide that no further obligations shall be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030 of the proceeds of the motor vehicle fuel taxes collected thereunder, shall not be repealed nor amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which any such tax proceeds have been pledged or

otherwise made payable from such tax proceeds, pursuant to this chapter, have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations shall be incurred thereafter.

Sec. 56. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ~~[an ordinance]~~ ordinances as authorized in NRS 373.030 ~~[ ]~~ and section 18 of this act, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from a county motor vehicle fuel tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 must first be submitted to the ~~[regional transportation]~~ commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161]~~ section 25 of this act, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

↪ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of the county motor vehicle fuel tax authorized pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, except to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred hereunder, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in ~~[NRS 373.130]~~ section 35 of this act. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161]~~ section 25 of this act.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to ~~[NRS 373.1161]~~ *section 25 of this act*, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

↪ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

Sec. 57. NRS 373.150 is hereby amended to read as follows:

373.150 1. Any city or town whose territory is not included wholly or in part in a regional plan for transportation established pursuant to ~~[NRS 373.1161]~~ *section 25 of this act* may receive a distribution in aid of an approved construction project from the regional street and highway fund, which must not exceed the amount allocated to such city or town pursuant to subsection 2.

2. The share of revenue from the county motor vehicle fuel tax allocated to a city or town pursuant to subsection 1 must be in the proportion which its total assessed valuation bears to the total assessed valuation of the entire county. Any amount so allocated which is not distributed currently in aid of an approved project must remain in the fund to the credit of that city or town.

Sec. 58. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances providing for the issuance of any bonds or other securities issued hereunder payable from the receipts from the motor vehicle fuel excise taxes herein designated may at the discretion of the board, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued hereunder.

2. If the board determines in any ordinance authorizing the issuance of any bonds or other securities hereunder that the proceeds of the taxes levied and collected pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065 are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof,



the board may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance hereunder by a pledge of and the creation of a lien upon not only the proceeds of any motor vehicle fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of ~~[NRS 373.130,]~~ *section 35 of this act*, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any motor vehicle fuel so long as any bonds or other securities issued hereunder remain outstanding and are not limited to any type or types of motor vehicle fuel in use when the bonds or other securities are issued.

Sec. 59. NRS 377A.130 is hereby amended to read as follows:

377A.130 A public transit system may, in addition to providing local transportation within a county, provide:

1. Services to assist commuters in communicating with others to share rides;
2. Transportation for elderly persons and persons with disabilities, including, without limitation, nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170;
3. Parking for the convenience of passengers on the system;
4. Stations and other necessary facilities to ensure the comfort and safety of passengers; and
5. Transportation that is available pursuant to ~~[NRS 373.117,]~~ *section 29 of this act*.

Sec. 60. NRS 405.030 is hereby amended to read as follows:

405.030 1. Except as otherwise provided in subsection 3 *and section 28 of this act*, and except within the limits of any city or town through which the highway may run, and on benches and shelters for passengers of public mass transportation built pursuant to a franchise granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~[373.1183,]~~ *section 32 of this act*, or on monorail stations, it is unlawful for any person, firm or corporation to paste, paint, print or in any manner whatever place or attach to any building, fence, gate, bridge, rock, tree, board, structure or anything whatever, any written, printed, painted or other outdoor advertisement, bill, notice, sign, picture, card or poster:

- (a) Within any right-of-way of any state highway or road which is owned or controlled by the Department of Transportation.
- (b) Within 20 feet of the main-traveled way of any unimproved highway.
- (c) On the property of another within view of any such highway, without the owner's written consent.

2. Nothing in this section prevents the posting or maintaining of any notices required by law to be posted or maintained, or the placing or maintaining of highway signs giving directions and distances for the information of the traveling public if the signs are approved by the Department of Transportation.

3. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

4. If a franchisee receives revenues from an advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

5. As used in this section, "monorail station" means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 61. NRS 405.110 is hereby amended to read as follows:

405.110 1. Except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~[373.1183,]~~ *sections 28 and 32 of this act*, or on monorail stations, no advertising signs, signboards, boards or other materials containing advertising matter may:

(a) Except as otherwise provided in subsection 3, be placed upon or over any state highway.

(b) Except as otherwise provided in subsections 3 and 4, be placed within the highway right-of-way.

(c) Except as otherwise provided in subsection 3, be placed upon any bridge or other structure thereon.

(d) Be so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways or otherwise so situated as to constitute a hazard upon or prevent the safe use of the state highway.

2. With the permission of the Department of Transportation, counties, towns or cities of this State may place at such points as are designated by the

Director of the Department of Transportation suitable signboards advertising the counties, towns or municipalities.

3. A person may place an advertising sign, signboard, board or other material containing advertising matter in any airspace above a highway if:

(a) The Department of Transportation has leased the airspace to the person pursuant to subsection 2 of NRS 408.507, the airspace is over an interstate highway and:

(1) The purpose of the sign, signboard, board or other material is to identify a commercial establishment that is entirely located within the airspace, services rendered, or goods produced or sold upon the commercial establishment or that the facility or property that is located within the airspace is for sale or lease; and

(2) The size, location and design of the sign, signboard, board or other material and the quantity of signs, signboards, boards or other materials have been approved by the Department of Transportation; or

(b) The person owns real property adjacent to an interstate highway and:

(1) The person has dedicated to a public authority a fee or perpetual easement interest in at least 1 acre of the property for the construction or maintenance, or both, of the highway over which he is placing the sign, signboard, board or other material and the person retained the air rights in the airspace above the property for which the person has dedicated the interest;

(2) The sign, signboard, board or other material is located in the airspace for which the person retained the air rights;

(3) The structure that supports the sign, signboard, board or other material is not located on the property for which the person dedicated the fee or easement interest to the public authority, and the public authority determines that the location of the structure does not create a traffic hazard; and

(4) The purpose of the sign, signboard, board or other material is to identify an establishment or activity that is located on the real property adjacent to the interstate highway, or services rendered or goods provided or sold on that property.

4. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

5. If any such sign is placed in violation of this section, it is thereby declared a public nuisance and may be removed forthwith by the Department of Transportation or the public authority.

6. Any person placing any such sign in violation of the provisions of this section shall be punished by a fine of not more than \$250, and is also liable in damages for any injury or injuries incurred or for injury to or loss of property sustained by any person by reason of the violation.

7. If a franchisee receives revenues from an advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

8. As used in this section, "monorail station" means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 62. NRS 484.287 is hereby amended to read as follows:

484.287 1. It is unlawful for any person to place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any such device, sign or signal, and except as otherwise provided in subsection 4, a person shall not place or maintain nor may any public authority permit upon any highway any sign, signal, ~~for~~ marking *or street banner* bearing thereon any commercial advertising except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, ~~for 373.1183,~~ *or sections 28 and 32 of this act*, or on monorail stations.

2. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the proper public authority may remove the same or cause it to be removed without notice.

3. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices.

4. A person may place and maintain commercial advertising in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110, and a public authority may permit commercial advertising that has been placed in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110.

5. If a franchisee receives revenues from commercial advertising authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated

by the advertising authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

6. As used in this section ~~["monorail"]~~ :

(a) "Monorail station" means:

~~[(a)]~~ (1) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

~~[(b)]~~ (2) Any facilities or appurtenances within such a structure.

(b) "Street banner" has the meaning ascribed to it in section 15 of this act.

Sec. 63. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as otherwise provided in NRS ~~[373.117,]~~ 706.446, 706.453 and 706.745, and section 29 of this act, for any fully regulated common motor carrier to operate as a carrier of intrastate commerce and any operator of a tow car to perform towing services within this State without first obtaining a certificate of public convenience and necessity from the Authority.

Sec. 64. NRS 373.025, 373.026, 373.040, 373.050, 373.055, 373.113, 373.115, 373.116, 373.1161, 373.1163, 373.117, 373.118, 373.1183, 373.1185, 373.130, 373.143 and 373.146 are hereby repealed.

Sec. 65. This act becomes effective on July 1, 2009.

#### LEADLINES OF REPEALED SECTIONS

373.025 "Federal securities" defined.

373.026 "Fixed guideway" defined.

373.040 Regional transportation commission: Number, selection and terms of representatives.

373.050 Regional transportation commission: Organization; meetings.

373.055 Regional transportation commission: Designation as metropolitan planning organization; duties.

373.113 Powers of commission: Federal money and projects; conduct of hearings.

373.115 Powers of commission: Creation of fund to match federal money.

373.116 Powers of commission: Real and personal property; eminent domain; adoption of regulations.

373.1161 Powers of commission: Capacity to sue and be sued; preparation and approval of budgets; plans for transportation; insurance.

373.1163 Powers of commission: Security; employment of personnel.

373.117 Authority of commission and certain counties and cities to establish or operate public transit system; special procedures for procurement and requirements for development of fixed guideway system.

373.118 Powers of commission: Parking facilities or parking spaces for general public and public employees.

373.1183 Counties whose population is 400,000 or more: Construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.

373.1185 Counties whose population is 400,000 or more: Advisory committee concerning construction, installation and maintenance of benches, shelters and transit stops.

373.130 Payment of cost of project by issuance of revenue bonds and other securities and direct distribution from regional street and highway fund.

373.143 Annual report to Department by commission in county which has population of less than 100,000.

373.146 Commission in county whose population is 400,000 or more to cooperate with local air pollution control board and regional planning coalition; prerequisites to adoption or amendment by commission of plan, policy or program.

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 clarifies that the placement of a street banner within a public right-of-way or on a facility owned or leased by the Regional Transportation Commission (RTC) is subject to an interlocal or cooperative agreement. It provides that the local government would retain the bulk of the advertising revenue from the street banners while the RTC would receive a previously agreed upon administrative fee.

It clarifies that vending can occur at commission-owned "buildings, terminals and parking facilities." It clarifies that an RTC shall determine the use of facilities and property owned, operated, or leased by the RTC.

It specifies that the monorail system in Las Vegas is not under the jurisdiction of the RTC of Southern Nevada.

It clarifies who is authorized to construct, install, and maintain certain electrical and communications systems only for use by an RTC and provides that an RTC is not a public utility.

And deletes a section relating to an RTC's liability for certain damages, as this is covered elsewhere in law and in current contracting practices.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 309.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 358.

"SUMMARY—Makes various changes to provisions governing ~~mopeds~~ motor vehicles. (BDR 43-533)"

"AN ACT relating to motor vehicles; prohibiting a dealer from offering a motorcycle for sale in this State unless the dealer provides a written statement concerning laws governing motorcycles to the purchaser at the time of sale; removing the exemption of mopeds from certain registration

requirements; requiring a fee for the registration of mopeds; requiring drivers and passengers of mopeds to wear protective headgear; defining "electric scooter" and exempting such vehicles from certain registration requirements; making electric scooters subject to certain provisions governing the safe operation of mopeds; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.2 of this bill prohibits a dealer from offering a motorcycle for sale in this State unless, at the time of sale, the dealer provides a written statement to the purchaser which provides that: (1) the motorcycle must be registered; (2) a license is required to drive a motorcycle upon a highway in this State; and (3) state law requires a driver or passenger of a motorcycle to wear certain protective gear under certain circumstances. A dealer who does not make the written disclosures required by section 1.2 is guilty of a misdemeanor.

Existing law exempts mopeds from the requirement that every owner of a motor vehicle, trailer or semitrailer intended to be operated upon any highway in this State register the motor vehicle, trailer or semitrailer with the Department of Motor Vehicles. (NRS 482.205) Section ~~1.9~~ 1.9 of this bill removes the exemption of mopeds from these registration requirements. ~~(NRS 482.210)~~ Section 3 of this bill requires that every moped be registered with the Department for a fee of \$33. ~~(NRS 482.480)~~ A person who does not register his moped pursuant to chapter 482 of NRS is guilty of a misdemeanor. (NRS 482.555) Section 1.1 of this bill defines an electric scooter and section 1.9 exempts such vehicles from the requirement that every owner of a motor vehicle, trailer or semitrailer intended to be operated upon any highway in this State register the motor vehicle, trailer or semitrailer with the Department.

Existing law prohibits a person from driving a motor vehicle upon a highway in this State unless the person possesses a valid driver's license. (NRS 483.230) Section 3.3 of this bill expands the definition of motor vehicle to include an electric scooter, thereby requiring a person who drives an electric scooter upon a highway in this State to possess a valid driver's license.

Sections 4.5 to 14, inclusive, of this bill make certain provisions governing the safe operation of mopeds applicable to electric scooters.

Section 5 of this bill requires drivers and passengers of mopeds and electric scooters to wear protective headgear securely fastened on the head which meets certain standards adopted by the Department. ~~(NRS 486.231)~~ A driver or passenger of a moped or electric scooter who does not wear such protective headgear is guilty of a misdemeanor. (NRS 486.381)

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 and 1.2 of this act.

*Sec. 1.1. "Electric scooter" means a device upon which a person may ride that:*

*1. Has two tandem wheels either of which is more than 14 inches in diameter;*

*2. Is propelled by a small electric motor which produces not more than 750 watts;*

*3. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and*

*4. Is capable of a maximum speed of not more than 20 miles per hour.*

*↳ The term does not include a moped.*

*Sec. 1.2. 1. A dealer shall not offer a motorcycle for sale in this State unless, at the time of sale, the dealer provides to the purchaser a written statement which provides that:*

*(a) The motorcycle must be registered in accordance with the provisions of chapter 482 of NRS;*

*(b) It is unlawful to drive a motorcycle upon any highway in this State unless the driver holds a valid motorcycle driver's license issued pursuant to NRS 486.011 to 486.381, inclusive, or a driver's license issued pursuant to chapter 483 of NRS endorsed to authorize the holder to drive a motorcycle or the driver is authorized by his state of residency to drive a motorcycle; and*

*(c) Chapter 486 of NRS requires drivers and passengers of motorcycles to wear protective headgear, glasses, goggles or face shields that meet standards adopted by the Department under certain circumstances.*

*2. A vehicle dealer who offers a motorcycle for sale in violation of subsection 1 is guilty of a misdemeanor.*

*Sec. 1.3. NRS 482.010 is hereby amended to read as follows:*

482.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 482.0105 to 482.137, inclusive, *and section 1.1 of this act* have the meanings ascribed to them in those sections.

*Sec. 1.5. NRS 482.069 is hereby amended to read as follows:*

482.069 "Moped" means a vehicle which looks and handles essentially like a bicycle and is propelled by a small engine which produces not more than 2 gross brake horsepower and which has a displacement of not more than 50 cubic centimeters, and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

*↳ The term does not include an electric scooter.*

*Sec. 1.7. NRS 482.070 is hereby amended to read as follows:*

482.070 "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term *"electric scooter,"* "tractor" or "moped" as defined in this chapter.



~~{Section 1.}~~ *Sec. 1.9.* NRS 482.210 is hereby amended to read as follows:

482.210 1. The provisions of this chapter requiring the registration of certain vehicles do not apply to:

- (a) Special mobile equipment.
- (b) Implements of husbandry temporarily drawn, moved or otherwise propelled upon the highways.
- (c) Any mobile home or commercial coach subject to the provisions of chapter 489 of NRS.
- (d) Golf carts which are:
  - (1) Traveling upon highways properly designated by the appropriate city or county as permissible for the operation of golf carts; and
  - (2) Operating pursuant to a permit issued pursuant to this chapter.
- (e) ~~Mopeds.~~ Electric scooters.
- (f) Towable tools or equipment as defined in NRS 484.202.
- (g) ~~(f)~~ Any motorized conveyance for a wheelchair, whose operator is a person with a disability who is unable to walk about.

2. For the purposes of this section, "motorized conveyance for a wheelchair" means a vehicle which:

- (a) Can carry a wheelchair;
- (b) Is propelled by an engine which produces not more than 3 gross brake horsepower or has a displacement of not more than 50 cubic centimeters;
- (c) Is designed to travel on not more than three wheels; and
- (d) Can reach a speed of not more than 30 miles per hour on a flat surface with not more than a grade of 1 percent in any direction.

↪ The term does not include a tractor.

*Sec. 2.* NRS 482.451 is hereby amended to read as follows:

482.451 1. The Department shall, upon receiving an order from a court to suspend the registration of each motor vehicle that is registered to or owned by a person pursuant to NRS 484.37975, suspend the registration of each such motor vehicle for 5 days and require the return to the Department of the license plates of each such motor vehicle.

2. If the registration of a motor vehicle of a person is suspended pursuant to this section, he shall immediately return the certificate of registration and the license plates to the Department.

3. The period of suspension of the registration of a motor vehicle that is suspended pursuant to this section begins on the effective date of the suspension as set forth in the notice thereof.

4. The Department shall reinstate the registration of a motor vehicle that was suspended pursuant to this section and reissue the license plates of the motor vehicle only upon the payment of the fee for reinstatement of registration prescribed in subsection ~~{10}~~ 11 of NRS 482.480.

5. The suspension of the registration of a motor vehicle pursuant to this section does not prevent the owner of the motor vehicle from selling or otherwise transferring an interest in the motor vehicle.

Sec. 3. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers ~~{ }~~ fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. *For each moped, a fee for registration of \$33.*

6. For each transfer of registration, a fee of \$6 in addition to any other fees.

~~{6.}~~ 7. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:

(a) A fee of \$250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

↪ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

~~{7.}~~ 8. For every travel trailer, a fee for registration of \$27.

~~{8.}~~ 9. For every permit for the operation of a golf cart, an annual fee of \$10.

~~9-10.~~ 10. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of \$33.

~~10-11.~~ 11. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

*Sec. 3.1. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:*

*"Electric scooter" means a device upon which a person may ride that:*

*1. Has two tandem wheels either of which is more than 14 inches in diameter;*

*2. Is propelled by a small electric motor which produces not more than 750 watts;*

*3. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and*

*4. Is capable of a maximum speed of not more than 20 miles per hour.*

*↳ The term does not include a moped.*

*Sec. 3.15. NRS 483.010 is hereby amended to read as follows:*

483.010 The provisions of NRS 483.010 to 483.630, inclusive, *and section 3.1 of this act* may be cited as the Uniform Motor Vehicle Drivers' License Act.

*Sec. 3.18. NRS 483.015 is hereby amended to read as follows:*

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, *and section 3.1 of this act* apply only with respect to noncommercial drivers' licenses.

*Sec. 3.2. NRS 483.020 is hereby amended to read as follows:*

483.020 As used in NRS 483.010 to 483.630, inclusive, *and section 3.1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, *and section 3.1 of this act* have the meanings ascribed to them in those sections.

*Sec. 3.25. NRS 483.088 is hereby amended to read as follows:*

483.088 "Moped" means a vehicle which looks and handles essentially like a bicycle and is propelled by a small engine which produces not more than 2 gross brake horsepower and which has a displacement of not more than 50 cubic centimeters, and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

*↳ The term does not include an electric scooter.*

*Sec. 3.3. NRS 483.090 is hereby amended to read as follows:*

483.090 "Motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails. "Motor vehicle" includes moped ~~and~~ *and electric scooter.*

*Sec. 3.35. NRS 483.220 is hereby amended to read as follows:*

483.220 The Administrator is authorized to promulgate rules and regulations governing activities of the Department under NRS 483.010 to 483.630, inclusive ~~483.360~~, and section 3.1 of this act.

*Sec. 3.4. NRS 483.360 is hereby amended to read as follows:*

483.360 1. The Department upon issuing a driver's license shall have authority, whenever good cause appears, to impose restrictions suitable to the licensee's driving ability with respect to special mechanical control devices required on a motor vehicle which the licensee may drive, or such other restrictions applicable to the licensee as the Department may determine to be appropriate to assure the safe driving of a motor vehicle by the licensee.

2. The Department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

3. The Department may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same, but the licensee shall be entitled to a hearing as upon a suspension or revocation under NRS 483.010 to 483.630, inclusive ~~483.360~~, and section 3.1 of this act.

4. It is a misdemeanor for any person to drive a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him.

*Sec. 3.45. NRS 483.450 is hereby amended to read as follows:*

483.450 1. Whenever any person is convicted of any offense for which the provisions of NRS 483.010 to 483.630, inclusive, and section 3.1 of this act make mandatory the revocation of his driver's license by the Department, the court in which the person is convicted may require the surrender to it of all driver's licenses then held by the person convicted, and the court may, within 20 days after the conviction, forward these licenses, together with a record of the conviction, to the Department.

2. A record of conviction must be made in a manner approved by the Department. The court shall provide sufficient information to allow the Department to include accurately the information regarding the conviction in the driver's record.

3. The Department shall adopt regulations prescribing the information necessary to record the conviction in the driver's record.

4. Every court, including a juvenile court, having jurisdiction over violations of the provisions of NRS 483.010 to 483.630, inclusive, and section 3.1 of this act, or any other law of this State or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the Department:

(a) If the court is other than a juvenile court, a record of the conviction of any person in that court for a violation of any such laws other than regulations governing standing or parking; or

(b) If the court is a juvenile court, a record of any finding that a child has violated a traffic law or ordinance other than one governing standing or parking,

↪ within 20 days after the conviction or finding, and may recommend the suspension of the driver's license of the person convicted or child found in violation of a traffic law or ordinance.

5. For the purposes of NRS 483.010 to 483.630, inclusive, ~~††~~, and section 3.1 of this act:

(a) "Conviction" has the meaning prescribed by regulation pursuant to NRS 481.052.

(b) A forfeiture of bail or collateral deposited to secure a defendant's appearance in court, if the forfeiture has not been vacated, is equivalent to a conviction.

6. The necessary expenses of mailing licenses and records of conviction to the Department as required by subsections 1 and 4 must be paid by the court charged with the duty of forwarding those licenses and records of conviction.

*Sec. 3.5. NRS 483.460 is hereby amended to read as follows:*

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 5 of NRS 484.377.

(2) A violation of NRS 484.379 or 484.379778 that is punishable as a felony pursuant to NRS 484.3792.

(3) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.

↪ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, and

section 3.1 of this act, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A violation of NRS 484.379 or 484.379778 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a violation of NRS 484.379 or 484.379778 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 or 484.379778 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

*Sec. 3.55. NRS 483.530 is hereby amended to read as follows:*

483.530 1. Except as otherwise provided in subsection 2, it is a misdemeanor for any person:

(a) To display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious, fraudulently altered or fraudulently obtained driver's license;

(b) To alter, forge, substitute, counterfeit or use an unvalidated driver's license;

(c) To lend his driver's license to any other person or knowingly permit the use thereof by another;

(d) To display or represent as one's own any driver's license not issued to him;

(e) To fail or refuse to surrender to the Department, a peace officer or a court upon lawful demand any driver's license which has been suspended, revoked or cancelled;

(f) To permit any unlawful use of a driver's license issued to him;

(g) To do any act forbidden, or fail to perform any act required, by NRS 483.010 to 483.630, inclusive ~~and~~, or section 3.1 of this act; or

(h) To photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid license, or to display or have in his possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by this chapter.

2. Except as otherwise provided in this subsection, a person who uses a false or fictitious name in any application for a driver's license or identification card or who knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the false statement, knowing concealment of a material fact or other commission of fraud described in this subsection relates solely to the age of a person, including, without limitation, to establish false proof of age to game, purchase alcoholic beverages or purchase cigarettes or other tobacco products, the person is guilty of a misdemeanor.

*Sec. 3.6. NRS 483.620 is hereby amended to read as follows:*

483.620 It is a misdemeanor for any person to violate any of the provisions of NRS 483.010 to 483.630, inclusive, and section 3.1 of this act, unless such violation is, by NRS 483.010 to 483.630, inclusive, and section 3.1 of this act or other law of this State, declared to be a felony.

*Sec. 3.65. NRS 483.630 is hereby amended to read as follows:*

483.630 NRS 483.010 to 483.630, inclusive, ~~shall~~ and section 3.1 of this act must be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them.

*Sec. 3.7. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:*

"Electric scooter" means a device upon which a person may ride that:

1. Has two tandem wheels either of which is more than 14 inches in diameter;

2. Is propelled by a small electric motor which produces not more than 750 watts;

3. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

4. Is capable of a maximum speed of not more than 20 miles per hour.

↪ The term does not include a moped.

Sec. 3.75. NRS 484.013 is hereby amended to read as follows:

484.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484.014 to 484.217, inclusive, and section 3.7 of this act have the meanings ascribed to them in those sections.

Sec. 3.8. NRS 484.019 is hereby amended to read as follows:

484.019 "Bicycle" means a device propelled by human power upon which a person may ride, having two tandem wheels either of which is over 14 inches in diameter, or every such device generally recognized as a bicycle though equipped with two front or two rear wheels except a moped ~~or~~ or an electric scooter.

Sec. 3.85. NRS 484.0798 is hereby amended to read as follows:

484.0798 "Moped" means a vehicle which looks and handles essentially like a bicycle and is propelled by a small engine which produces not more than 2 gross brake horsepower and which has a displacement of not more than 50 cubic centimeters, and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

↪ The term does not include an electric scooter.

Sec. 3.88. NRS 484.083 is hereby amended to read as follows:

484.083 "Motorcycle" means every motor vehicle equipped with a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, including a power cycle but excluding an electric scooter, a tractor or a moped.

Sec. 3.9. NRS 484.549 is hereby amended to read as follows:

484.549 1. Every motor vehicle, other than a motorcycle, ~~for moped, shall~~ moped or electric scooter must be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps ~~shall~~ must comply with the requirements and limitations set forth in this chapter.

2. Every head lamp upon every motor vehicle ~~shall~~ must be located at a height, measured from the center of the head lamp, of not more than 54 inches nor less than 24 inches to be measured in the manner set forth in NRS 484.547.

3. Snow removal equipment used in clearing snow from highways and other special mobile equipment which by the nature of its design makes it



impracticable to comply with the requirements of subsection 2 may have such head lamps located at a height higher than 54 inches.

*Sec. 3.95. NRS 484.587 is hereby amended to read as follows:*

484.587 Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp, or combination thereof, on motor vehicles other than motorcycles ~~for mopeds shall~~, mopeds or electric scooters must be so arranged that the driver may select at will between distributions of light projected to different elevations, and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

1. There ~~shall~~ must be an uppermost distribution of light, or composite beam, so aimed and of such intensity to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

2. There ~~shall~~ must be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight, level road under any condition of loading ~~none of~~ the high-intensity portion of the beam ~~shall~~ must not be directed to strike the eyes of an approaching driver.

3. Every new motor vehicle, other than a motorcycle ~~for moped,~~ moped or electric scooter, registered in this State after January 1, 1956, which has multiple-beam road lighting equipment ~~shall~~ must be equipped with a beam indicator, which ~~shall~~ must be lighted whenever the uppermost distribution of light from the head lamps is in use, and ~~shall~~ must not otherwise be lighted. The indicator ~~shall~~ must be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

*Sec. 4. NRS 485.317 is hereby amended to read as follows:*

485.317 1. Subject to the limitations set forth in this subsection and subsection 2, the Department shall, at least monthly, compare the current registrations of motor vehicles to the information in the database created pursuant to NRS 485.313 to verify that each motor vehicle:

- (a) Which is newly registered in this State; or
- (b) For which a policy of liability insurance has been issued, amended or terminated,

↪ is covered by a policy of liability insurance as required by NRS 485.185. In identifying a motor vehicle for verification pursuant to this subsection, the Department may, if the motor vehicle was manufactured during or after 1981, use only the last eight digits of the vehicle identification number. In comparing the vehicle identification number of a motor vehicle to the vehicle identification number in a policy of liability insurance, to determine if the two vehicle identification numbers match, the Department may find that the two vehicle identification numbers match if no fewer than seven of the last eight digits of the two vehicle identification numbers match.

2. Except as otherwise provided in this subsection, the Department may use any information to verify, pursuant to subsection 1, whether the motor

vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If, pursuant to subsection 1, the Department determines that a motor vehicle is not covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a form for verification by first-class mail to each registered owner that it determines has not maintained the insurance required by NRS 485.185. The owner shall complete the form with all the information which is requested by the Department, including whether he carries an owner's or operator's policy of liability insurance or a certificate of self-insurance, and return the completed form within 20 days after the date on which the form was mailed by the Department. If the Department does not receive the completed form within 20 days after it mailed the form to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless he submits a completed form to the Department within 15 days after the date on which the notice was sent by the Department his registration will be suspended pursuant to subsection 5. This subsection does not prohibit an authorized agent of the owner from providing to the Department:

(a) The information requested by the Department pursuant to this subsection.

(b) Additional information to amend or correct information already submitted to the Department pursuant to this subsection.

4. When the Department receives a completed form for verification, it shall verify the information on the form.

5. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the form for verification set forth in subsection 3 is:

(a) Not returned to the Department by the registered owner or his authorized agent within the period specified in that subsection;

(b) Returned to the Department by the registered owner or his authorized agent and the Department is not able to verify the information on the form; or

(c) Returned by the registered owner or his authorized agent with an admission of having no insurance or without indicating an insurer or the number of a motor vehicle liability policy or a certificate of self-insurance.

6. If the Department suspends a registration pursuant to subsection 5 because:

(a) Neither the owner nor his authorized agent returned a form for verification within the specified period or the owner or his authorized agent returned a form for verification that was not completed sufficiently, and the owner or his authorized agent, thereafter:

(1) Proves to the satisfaction of the Department that there was a justifiable cause for his failure to do so;

(2) Submits a completed form regarding his insurance on the date stated in the form mailed by the Department pursuant to subsection 3; and

(3) Presents evidence of current insurance; or

(b) The owner or his authorized agent submitted to the Department a form for verification containing information that the Department was unable to verify and, thereafter, the owner or his authorized agent presents to the Department:

(1) A corrected form or otherwise verifiable evidence setting forth that the owner possessed insurance on the date stated in the form; and

(2) Evidence of current insurance,

↪ the Department shall rescind its suspension of the registration if it is able to verify the information on the form or the other evidence presented. The Department shall not charge a fee to reinstate a registration, the suspension of which was rescinded pursuant to this subsection. For the purposes of this subsection, "justifiable cause" may include, but is not limited to, the fact that the owner did not receive the form mailed by the Department pursuant to subsection 3.

7. Except as otherwise provided in subsections 8 and 9, if a registered owner whose registration is suspended pursuant to subsection 5, failed to have insurance on the date specified in the form for verification, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon filing by the registered owner of evidence of current insurance and payment of the fee for reinstatement of registration prescribed in paragraph (a) of subsection ~~6~~ 7 of NRS 482.480.

8. If a registered owner proves to the satisfaction of the Department that his vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate his registration and, if applicable, reissue his license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate his registration or reissue his license plates unless the owner pays the fee set forth in paragraph (b) of subsection ~~6~~ 7 of NRS 482.480.

9. If the Department suspends the registration of a motor vehicle pursuant to subsection 5 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that he was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstates the registration of the motor vehicle and reissues the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection ~~6~~ 7 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

↪ The Department shall adopt regulations to carry out the provisions of this subsection.

10. For the purposes of verification of insurance by the Department pursuant to this section, a motor vehicle shall be deemed to be covered by liability insurance unless the motor vehicle is without coverage for a period of more than 7 days.

*Sec. 4.1. Chapter 486 of NRS is hereby amended by adding thereto a new section to read as follows:*

*"Electric scooter" means a device upon which a person may ride that:*

*1. Has two tandem wheels either of which is more than 14 inches in diameter;*

*2. Is propelled by a small electric motor which produces not more than 750 watts;*

*3. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and*

*4. Is capable of a maximum speed of not more than 20 miles per hour.*

↪ *The term does not include a moped.*

*Sec. 4.2. NRS 486.011 is hereby amended to read as follows:*

486.011 As used in NRS 486.011 to 486.381, inclusive, and section 4.1 of this act, unless the context otherwise requires, the words and terms defined in NRS 486.031 to 486.057, inclusive, and section 4.1 of this act have the meanings ascribed to them in those sections.

*Sec. 4.3. NRS 486.038 is hereby amended to read as follows:*

486.038 "Moped" means a vehicle which looks and handles essentially like a bicycle and is propelled by a small engine which produces not more than 2 gross brake horsepower and which has a displacement of not more than 50 cubic centimeters, and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

↪ *The term does not include an electric scooter.*

*Sec. 4.4. NRS 486.041 is hereby amended to read as follows:*

486.041 "Motorcycle" means every motor vehicle equipped with a seat or a saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, including a power cycle but excluding an electric scooter, a tractor and a moped.

*Sec. 4.5. NRS 486.181 is hereby amended to read as follows:*

486.181 1. A motorcycle, ~~or~~ moped ~~shall~~ or electric scooter must not be driven upon a highway while carrying more than one person unless ~~such motorcycle or~~ the motorcycle, moped or electric scooter is designed by the manufacturer to carry more than one person.

2. A passenger shall ride:

- (a) Behind the driver and astride the permanent or regular seat which was designed for two persons;
- (b) Astride another seat firmly attached at the rear of the driver; or
- (c) In a sidecar attached.

3. Every ~~such motorcycle or~~ motorcycle, moped or electric scooter designed for transporting a passenger ~~shall~~ must be equipped with footrests adjusted to fit ~~such~~ the passenger.

*Sec. 4.6. NRS 486.191 is hereby amended to read as follows:*

486.191 1. A person driving a motorcycle, ~~or~~ moped or electric scooter shall ride only upon the permanent and regular seat attached thereto.

2. A person shall not drive a motorcycle, ~~or~~ moped or electric scooter with the seat for the driver so positioned that the driver, when sitting astride the seat with the motorcycle, ~~or~~ moped or electric scooter in a stopped and upright position, cannot reach the ground with both feet simultaneously.

*Sec. 4.7. NRS 486.201 is hereby amended to read as follows:*

486.201 A person shall not drive a motorcycle, ~~or~~ moped or electric scooter equipped with handlebars which extend above the uppermost portion of the driver's shoulders when the driver sits on the seat and the seat is depressed by the weight of the driver.

*Sec. 4.8. NRS 486.211 is hereby amended to read as follows:*

486.211 The driver of a motorcycle, ~~or~~ moped or electric scooter shall drive with at least one hand on a handlebar at all times.

*Sec. 4.9. NRS 486.221 is hereby amended to read as follows:*

486.221 A person shall not drive a motorcycle, ~~or~~ moped or electric scooter unless the wheels are protected by fenders to prevent the throwing of rocks, dirt, water or other substances to the rear.

*Sec. 5. NRS 486.231 is hereby amended to read as follows:*

486.231 1. The Department shall adopt standards for ~~protective~~ :

(a) Protective headgear for drivers and passengers of mopeds ~~and~~ and electric scooters.

(b) Protective headgear and protective glasses, goggles or face shields ~~to be worn by the~~ for drivers and passengers of motorcycles and transparent windscreens for motorcycles.

2. Except as *otherwise* provided in this section, ~~when~~ the driver and passenger of any ~~motorcycle,~~ :

(a) Motorcycle, except a trimobile, ~~or moped, is~~ being driven on a highway ~~the driver and passenger~~ shall wear protective headgear securely fastened on the head and protective glasses, goggles or face shields ~~meeting~~ which meet those standards. ~~Drivers and passengers of trimobiles~~

(b) Trimobile shall wear protective glasses, goggles or face shields which meet those standards.

(c) Moped or electric scooter shall wear protective headgear securely fastened on the head which meets those standards.

3. When a motorcycle or a trimobile is equipped with a transparent windscreen ~~[meeting]~~ *which meets* those standards, the driver and passenger are not required to wear glasses, goggles or face shields.

4. When a motorcycle is being driven in a parade authorized by a local authority, the driver and passenger are not required to wear the protective devices provided for in this section.

5. When a three-wheel motorcycle on which the driver and passengers ride within an enclosed cab is being driven on a highway, the driver and passengers are not required to wear the protective devices required by this section.

*Sec. 6. NRS 486.251 is hereby amended to read as follows:*

486.251 1. Every motorcycle, ~~for~~ moped *or electric scooter* operated upon a highway of this State at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when, because of insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead must display lighted lamps and illuminating devices as respectively required pursuant to NRS 486.011 to 486.381, inclusive, ~~and~~ *and section 4.1 of this act.*

2. Every motorcycle or moped operated upon a highway must be equipped with stop lights to be lighted in the manner prescribed for the use of such devices.

*Sec. 7. NRS 486.261 is hereby amended to read as follows:*

486.261 1. Except as otherwise provided in subsection 3, every motorcycle or moped must be equipped with at least one tail lamp mounted on the rear, which, when lighted as required by NRS 486.011 to 486.381, inclusive, *and section 4.1 of this act.* emits a red light plainly visible from a distance of 500 feet to the rear.

2. The tail lamp must be wired to be lighted whenever the head lamp is lighted.

3. The tail lamp on a motorcycle may contain a blue insert that does not exceed 1 inch in diameter.

*Sec. 8. NRS 486.281 is hereby amended to read as follows:*

486.281 1. Every motorcycle ~~for moped shall~~, *moped or electric scooter must* be equipped with at least one and not more than two head lamps.

2. Every ~~such~~ head lamp on a motorcycle ~~shall~~ *must* be located at a height of not more than 54 inches nor less than 24 inches from the ground as measured from the center of the lamp to the level ground upon which ~~such~~ *the* motorcycle stands without a load.

*Sec. 9. NRS 486.291 is hereby amended to read as follows:*

486.291 1. Every motorcycle ~~for moped shall~~, *moped or electric scooter must* carry on the rear at least one reflector, which ~~shall~~ *must* be mounted at a height not less than 20 inches nor more than 60 inches from the ground as measured from the center of the reflector to the level ground upon

which ~~such motorcycle or~~ the motorcycle, moped or electric scooter stands without a load.

2. Each such reflector ~~shall~~ must be of a size and character and so mounted as to be visible at night from all distances within 300 feet when directly in front of lawful lower beams of head lamps.

*Sec. 10. NRS 486.301 is hereby amended to read as follows:*

486.301 Every motorcycle ~~for moped shall~~, moped or electric scooter must be equipped with brakes adequate to control the stopping and holding as prescribed in NRS 484.593 and 484.595.

*Sec. 11. NRS 486.311 is hereby amended to read as follows:*

486.311 Every motorcycle ~~for moped shall~~, moped or electric scooter must be equipped with two mirrors, each containing a reflection surface not less than 3 inches in diameter, with one mirror mounted on each handlebar, in positions enabling the driver to view clearly the highway for a distance of 200 feet to the rear.

*Sec. 12. NRS 486.331 is hereby amended to read as follows:*

486.331 A person driving a motorcycle, ~~for~~ moped or electric scooter upon a highway is entitled to all the rights and subject to all the duties applicable to the drivers of motor vehicles as provided by law, except those provisions which by their nature can have no application.

*Sec. 13. NRS 486.341 is hereby amended to read as follows:*

486.341 Every motorcycle, ~~for~~ moped or electric scooter when being driven on the highway is entitled to full use of the traffic lane it is occupying, and a person shall not drive another motor vehicle in a manner which would deprive any such motorcycle, ~~for~~ moped or electric scooter of such use.

*Sec. 14. NRS 486.351 is hereby amended to read as follows:*

486.351 1. A person, except a police officer in the performance of his duty, shall not drive a motorcycle, ~~for~~ moped or electric scooter between moving or stationary vehicles occupying adjacent traffic lanes.

2. Except as provided in subsection 3, a person shall not drive a motorcycle, moped, electric scooter or trimobile abreast of or overtake or pass another vehicle within the same traffic lane.

3. Motorcycles, ~~and~~ mopeds and electric scooters may, with the consent of the drivers, be operated no more than two abreast in a single traffic lane.

*Sec. 15. NRS 486A.110 is hereby amended to read as follows:*

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include ~~the~~

~~1. Farm;~~

1. An electric scooter as defined in section 1.1 of this act;

2. A farm tractor as defined in NRS 482.035;

~~{2. Moped}~~

3. A moped as defined in NRS 482.069; and

~~{3. Motorcycle}~~

4. A motorcycle as defined in NRS 482.070.

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan, Carlton and Coffin.

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

SENATOR NOLAN:

The amendment creates in statute a new classification of motor scooter vehicle. It takes those vehicles which have the same horsepower and speed that motorcycles have and reclassifies them so that those vehicles when they operate them on the highway have to be registered and licensed just like a motorcycle.

SENATOR CARLTON:

I did not support this measure in committee. The sponsor of the bill is well aware of the concerns I have. I would like to share those with the rest of the body.

This amendment takes a moped, which is a low-cost form of transportation, and requires that it be registered, titled and insured. I investigated what the cost of this would be and found it would be close to that of a motorcycle. This places the moped into the motorcycle category. You do need to have a driver's license to operate a moped. I am concerned about people not being able to afford the insurance. This bill eliminates a low-cost form of transportation. I understand the problems that are occurring. There are dealers who sell what they call a moped and it actually fits within the motorcycle category. I support that measure in the bill, but I do not support to make every moped that goes "put, put, put" down the side of the road to be titled, registered and insured. If you have a 17-year-old boy, you know what the cost of insurance can be. If they call the moped a motorcycle, it will be more expensive than a car. That is why I oppose this measure.

SENATOR NOLAN:

This bill was brought to us by law enforcement. They have had an issue with scooter-like vehicles, which are actually designed to look like a scooter, but are really motorcycles. They have the horsepower and the capacity to drive more than 30 miles-per-hour. They are on the streets in traffic. They are taking up traffic lanes. When these vehicles are involved in an accident, often it is the individual in the car who is not at fault, yet they are left paying for the costs. The amendment excludes the as my colleague Senator Carlton calls them, "putt, putt" scooters, which are typically the ones our children operate. They have a low horsepower ratio. They run at low speeds. It addresses the vehicles that are low-cost forms of transportation. The registration for these vehicles is also low at about \$35. The cost for the insurance for those vehicles is the same as the cost for insurance on motorcycles, which is generally, very low.

SENATOR COFFIN:

It seems as if the description of this vehicle fits the Segway. Is that true?

SENATOR NOLAN:

This was a committee amendment that was designed by the committee to address the concerns that were raised. No, it does not address or encompass Segway vehicles.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 318.

Bill read second time.

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

Amendment No. 500.



"SUMMARY—~~[Provides that tuition at all]~~ *Revises provisions governing tuition paid by persons in the Armed Forces of the United States and by veterans at campuses of the Nevada System of Higher Education. ~~[must be free for certain veterans.]~~* (BDR 34-744)"

"AN ACT relating to the Nevada System of Higher Education; ~~[providing that tuition at all]~~ *revising provisions governing tuition paid by persons in the Armed Forces of the United States and by veterans at* campuses of the Nevada System of Higher Education ; ~~[must be free for certain veterans of the Armed Forces of the United States.]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to fix a tuition charge for students at all campuses of the Nevada System of Higher Education but requires that tuition be free for: (1) all students whose families have been bona fide residents of Nevada for at least 12 months before matriculation; (2) all students who themselves have been bona fide residents of Nevada for at least 12 months before matriculation; (3) public school teachers; (4) full-time teachers in private schools who satisfy certain criteria; (5) employees of the System; and (6) members of the Armed Forces of the United States. (NRS 396.540) This bill provides that *members of the Armed Forces of the United States must be on active duty and stationed in Nevada to receive free tuition. In addition, this bill provides that* tuition must also be free for veterans of the Armed Forces of the United States who were *honorably* discharged ~~[or released therefrom under conditions other than dishonorable and who are bona fide residents of]~~ *and who were on active duty and stationed at a military installation in the State of Nevada ~~[.]~~ or certain other military installations on the date of discharge.*

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

Section 1. NRS 396.540 is hereby amended to read as follows:

396.540 1. For the purposes of this section:

(a) "Bona fide resident" shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with any statute. The qualification "bona fide" is intended to ~~[assure]~~ *ensure* that the residence is genuine and established for purposes other than the avoidance of tuition.

(b) "Matriculation" has the meaning ascribed to it in regulations adopted by the Board of Regents.

(c) "Tuition charge" means a charge assessed against students who are not residents of Nevada and which is in addition to registration fees or other fees assessed against students who are residents of Nevada.

2. The Board of Regents may fix a tuition charge for students at all campuses of the System, but tuition must be free to:

(a) All students whose families have been bona fide residents of the State of Nevada for at least 12 months ~~prior to~~ *before* the matriculation of the student at a university, state college or community college within the System;

(b) All students whose families reside outside of the State of Nevada, providing such students have themselves been bona fide residents of the State of Nevada for at least 12 months before their matriculation at a university, state college or community college within the System;

(c) All public school teachers who are employed full-time by school districts in the State of Nevada;

(d) All full-time teachers in private elementary, secondary and postsecondary educational institutions in the State of Nevada whose curricula meet the requirements of chapter 394 of NRS;

(e) Employees of the System who take classes other than during their regular working hours; ~~and~~

(f) Members of the Armed Forces of the United States ~~+~~ who are on active duty and stationed at a military installation in the State of Nevada ; and

(g) Veterans of the Armed Forces of the United States who were honorably discharged ~~for released therefrom under conditions other than dishonorable~~ and who ~~are bona fide residents of~~ were on active duty while stationed at a military installation in the State of Nevada ~~+~~ or a military installation in another state which has a specific nexus to this State, including, without limitation, the Marine Corps Mountain Warfare Training Center located at Pickel Meadow, California, on the date of discharge.

3. The Board of Regents may grant tuitions free each semester to other worthwhile and deserving students from other states and foreign countries, in a number not to exceed a number equal to 3 percent of the total matriculated enrollment of students for the last preceding fall semester.

Sec. 2. This act becomes effective on July 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.

Thank you, Mr. President. This amendment clarifies that tuition at all campuses of the Nevada System of Higher Education must be free for active members of the Armed Forces of the United States who are stationed in Nevada. Also, Veterans of the Armed Forces of the United States who were stationed in Nevada at the time of discharge or who were stationed at any other military installation that has a specific nexus, including a commercial or geographic tie to Nevada, at the time of discharge. This would include the Marine Corps Mountain Warfare Training Center located at Pickle Meadow, California.

Amendment adopted.

Bill ordered reprinted and engrossed.

Senator Wiener moved that Senate Bill No. 318 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Wiener.

Motion carried.

Senate Bill No. 332.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 472.

"SUMMARY—Revises provisions governing ~~[vehicles owned or operated by certain governmental entities.]~~ the use of alternative fuels and clean vehicles. (BDR 43-1147)"

"AN ACT relating to vehicles; revising provisions governing the use of alternative fuels and clean vehicles by fleets owned, operated or leased by certain state agencies and local governing bodies; ~~[requiring the Chief of the Budget Division of the Department of Administration to adopt a policy concerning the approval of the purchase or lease of a vehicle by a state agency.]~~ authorizing a program to provide incentives to acquire clean vehicles and motor vehicles that use alternative fuels; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-11 of this bill revise provisions governing the use of alternative fuels by certain fleet vehicles. (NRS 486A.010-486A.180) Section 4 revises the definition of "alternative fuel" to authorize the State Environmental Commission to define the term by regulation. (NRS 486A.030) Section 5 revises the definition of "fleet" to limit the applicability of sections 1-11 to a fleet of 50 or more motor vehicles that are under the common control of and owned, leased or operated by a state agency or a local governing body. (NRS 486A.080) Section 6 excludes ~~[ (1) vehicles which are owned, leased or operated by the State or any political subdivision of the State and which are designed for carrying more than 15 passengers; and (2) ]~~ certain vehicles that have a manufacturer's gross vehicle weight rating of more than 26,000 pounds from the requirements of sections 1-11. (NRS 486A.110)

Section 12 of this bill revises provisions encouraging the voluntary use of clean vehicles and motor vehicles that use ~~[clean burning fuels and]~~ alternative fuels by persons who are not subject to the requirements of sections 1-11 of this bill. (NRS 486A.200)

~~[ Section 13 of this bill requires the Chief of the Budget Division of the Department of Administration to adopt a policy concerning the approval of the purchase or lease of a vehicle by a state agency to ensure that the purchase or lease is consistent with the best interests of the State and that the vehicle is procured and managed efficiently and effectively. Section 13 sets forth certain criteria the Chief must consider when adopting the policy and authorizes the Chief to consult with such persons as he determines necessary in adopting the policy. Section 13 exempts from the policy those vehicles that are operated by the: (1) Nevada Highway Patrol; (2) State Motor Pool; (3) Department of Transportation; and (4) Nevada System of Higher Education. Section 13 also authorizes the Chief to exempt any other state agency from the policy as he determines is appropriate.]~~

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

Section 1. Chapter 486A of NRS is hereby amended by adding thereto a new section to read as follows:

*"Clean vehicle" means any motor vehicle ~~which is owned by the State or any political subdivision of the State and~~ which complies with the standards and requirements for clean vehicles established by the Commission.*

Sec. 2. NRS 486A.010 is hereby amended to read as follows:

486A.010 The Legislature finds that:

1. ~~{Protection of the}~~ *The State's environment, particularly the quality of its air, ~~requires a reduction,~~ can be improved, especially in metropolitan areas, ~~of the contaminants resulting from the combustion of conventional fuels in motor}~~ through the use of alternative fuels and clean vehicles.*

2. A very large proportion of ~~these~~ *air contaminants ~~results~~ result* from the burning of liquid and gaseous fuels to operate trucks and buses, many of which are operated in fleets. Each fuel can be evaluated as to the air pollution it causes when burned in motor vehicles ~~;~~

~~3. Conversion of these fleets to use cleaner-burning alternative fuels can reduce contaminants sufficiently to permit the continued use of conventional fuels in individually owned motor}, and particular models of motor vehicles can be evaluated to assess the amount of contaminants those motor vehicles emit.~~

3. *Fleets operated by state agencies and local governing bodies can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.*

Sec. 3. NRS 486A.020 is hereby amended to read as follows:

486A.020 As used in NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 486A.030 to 486A.130, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 486A.030 is hereby amended to read as follows:

486A.030 "Alternative fuel" means any fuel which complies with the standards and requirements *for alternative fuel* established by the Commission. ~~{The term includes:~~

1. ~~Reformulated gasoline; and~~

2. ~~Finished diesel fuel that:~~

(a) ~~Meets ASTM International specification D975; and~~

(b) ~~Includes at least 5 percent biodiesel fuel blend stock for distillate fuels meeting ASTM International specification D6751;~~

~~which comply with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards for the control of emissions from motor vehicles established in the Clean Air Act Amendments of 1990, Public Law 101-549, November 15, 1990.}~~

Sec. 5. NRS 486A.080 is hereby amended to read as follows:

486A.080 "Fleet" means ~~10~~ 50 or more motor vehicles that are *under the common control of and* owned, leased or operated by ~~the State or a local governing body. The term includes fleets that are used by the State,~~ a state agency or a local governing body. The term does not include long haul trucks for use in interstate transportation or motor vehicles held for lease or rental to the general public.

Sec. 6. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include a:

1. ~~Vehicle which is owned, leased or operated by the State or any political subdivision of the State and which is designed for carrying more than 15 passengers;~~

~~2.~~ Farm tractor as defined in NRS 482.035;

~~2.~~ ~~3.~~ Moped as defined in NRS 482.069; ~~and~~

~~3.~~ ~~4.~~ Motorcycle as defined in NRS 482.070 ~~;~~ and

~~5.~~ 4. *Vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds ~~+~~, unless the vehicle is designed for carrying more than 15 passengers.*

Sec. 7. NRS 486A.140 is hereby amended to read as follows:

486A.140 The provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* do not apply to:

1. The owner of a fleet of motor vehicles that operates only in a county whose population is less than 100,000.

2. Any governmental agency exempted by federal statute or regulation.

3. Any person exempted by the Commission.

Sec. 8. NRS 486A.150 is hereby amended to read as follows:

486A.150 The Commission shall adopt regulations necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act*, including, ~~but not limited to,~~ *without limitation*, regulations concerning:

1. Standards and requirements for alternative fuel. The Commission shall not discriminate against any product that is petroleum based.

2. *Standards and requirements for clean vehicles and motor vehicles that use alternative fuels.*

3. ~~The [conversion of fleets to use alternative fuels if the] acquisition of clean vehicles and motor vehicles that use alternative fuels by a fleet that is operated in a county whose population is 100,000 or more ~~+~~~~

~~3.~~ ~~Standards for alternative fuel injection systems for diesel motor vehicles,~~ *including, without limitation, recordkeeping and reporting requirements concerning such vehicles.*

4. Standards for levels of emissions from motor vehicles that are converted to use alternative fuels.

5. The establishment of a procedure for approving *variances or exemptions* to the requirements of NRS 486A.010 to 486A.180, inclusive ~~+~~

~~6. Standards related to the use of dedicated alternative fuel motor vehicles.], and section 1 of this act.~~

Sec. 9. NRS 486A.160 is hereby amended to read as follows:

486A.160 1. The Department shall:

(a) Make such determinations and issue such orders as may be necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~{-}~~, and section 1 of this act;

(b) Enforce the regulations adopted by the Commission pursuant to the provisions of NRS 486A.010 to 486A.180, inclusive ~~{-}~~, and section 1 of this act; and

(c) Conduct any investigation, research or study necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~{-}~~, and section 1 of this act.

2. Upon request, the Department of Motor Vehicles shall provide to the Department information contained in records of registration of motor vehicles.

Sec. 10. NRS 486A.170 is hereby amended to read as follows:

486A.170 1. An authorized representative of the Department may enter and inspect any fleet of ~~{10 or more}~~ motor vehicles that is subject to the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act to ascertain compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act and any regulations adopted pursuant thereto.

2. A person who owns or leases a fleet of ~~{10 or more}~~ motor vehicles shall not:

(a) Refuse entry or access to the motor vehicles to any authorized representative of the Department who requests entry for the purpose of inspection as provided in subsection 1.

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

3. If requested by the owner or lessor of a fleet of motor vehicles, the Department shall prepare a report of an inspection made pursuant to subsection 1 setting forth all facts determined which relate to the owner's or lessor's compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act and any regulations adopted pursuant thereto.

Sec. 11. NRS 486A.180 is hereby amended to read as follows:

486A.180 1. Except as otherwise provided in subsection 4, any person who violates any provision of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act or any regulation adopted pursuant thereto, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$5,000. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines of not more than \$1,000 for lesser violations of any provision of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act or any regulation ~~{in force}~~ adopted pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* and any regulations ~~[in force]~~ *adopted* pursuant thereto, by injunction or other appropriate remedy. The Commission or the Director of the Department may institute and maintain in the name of the State of Nevada any such enforcement proceeding.

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

5. The Commission and the Department shall deposit all money collected pursuant to this section in the State General Fund. Money deposited in the State General Fund pursuant to this subsection must be accounted for separately and may only be expended upon legislative appropriation.

Sec. 12. NRS 486A.200 is hereby amended to read as follows:

486A.200 1. After consulting with the Department of Business and Industry, the Department may, within limits of legislative appropriations or authorizations or grants available for this purpose, develop and carry out a program to provide incentives to encourage those persons who are not otherwise required to do so pursuant to NRS 486A.010 to 486A.180, inclusive, *and section 1 of this act* to ~~[use clean-burning fuel in motor vehicles.]~~ *acquire clean vehicles and motor vehicles that use ~~[clean-burning motor vehicle fuels and]~~ alternative fuels.* The program may include, without limitation, a method of educating the members of the general public concerning:

(a) The program administered by the Department; and

(b) The benefits of using ~~[clean-burning fuel in]~~ *clean vehicles and* motor vehicles ~~[.] that use ~~[clean-burning motor vehicle fuels and]~~ alternative fuels.~~

2. The Department may adopt regulations to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Clean burning fuel" has the meaning ascribed to alternative fuel in 10 C.F.R. § 490.2.]~~ *"Clean vehicle" has the meaning ascribed to it in section 1 of this act.*

(b) "Department" means the State Department of Conservation and Natural Resources.

(c) ~~[(b)]~~ "Motor vehicle" has the meaning ascribed to it in NRS 365.050.

Sec. 13. ~~[Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Chief shall adopt a policy concerning the approval of the purchase or lease of a vehicle by a state agency to ensure that the purchase or lease is consistent with the best interests of the State and that the vehicle is procured and managed efficiently and effectively. The Chief may establish requirements and guidelines for state agencies to carry out the policy established pursuant to this section.~~

~~2. In adopting the policy and establishing the requirements and guidelines, the Chief shall consider:~~

- ~~(a) Whether the type of vehicle requested by the state agency is appropriate to the purpose for which the vehicle is requested;~~
- ~~(b) The reliability rating of a vehicle;~~
- ~~(c) The fuel economy of a vehicle;~~
- ~~(d) The green rating of a vehicle;~~
- ~~(e) The warranty of a vehicle;~~
- ~~(f) The cost of acquisition of a vehicle;~~
- ~~(g) The operating cost of a vehicle over the life of the vehicle;~~
- ~~(h) The relationship between a manufacturer and the State;~~
- ~~(i) The relationship between a vehicle dealer and the State;~~
- ~~(j) The availability and reliability of a vehicle dealer's network;~~
- ~~(k) The resale value of a vehicle; and~~
- ~~(l) Any other factors the Chief determines are appropriate.~~

~~3. In adopting the policy and establishing the requirements and guidelines, the Chief may consult any person identified by the Chief as having knowledge, expertise or interest in the purchase and management of vehicles, including, without limitation, one or more representatives of:~~

- ~~(a) The Purchasing Division of the Department of Administration;~~
- ~~(b) The State Motor Pool;~~
- ~~(c) Any fleet owned, leased or operated by a state agency; and~~
- ~~(d) Any other interested state agency.~~

~~4. The following state agencies are exempt from the policy, requirements and guidelines:~~

- ~~(a) The Nevada Highway Patrol;~~
- ~~(b) The State Motor Pool;~~
- ~~(c) The Department of Transportation;~~
- ~~(d) The Nevada System of Higher Education;~~

~~5. The Chief may provide for the exemption of any other state agency from the policy, requirements and guidelines if he determines that such an exemption is appropriate.~~

~~6. As used in this section, "Chief" means the Chief of the Budget Division of the Department of Administration. (Deleted by amendment.)~~

Sec. 14. NRS 486A.040, 486A.060 and 486A.090 are hereby repealed.

Sec. 15. This act becomes effective on July 1, 2009.

#### TEXT OF REPEALED SECTIONS

486A.040 "Bi-fueled motor vehicle" defined. "Bi-fueled motor vehicle" means a motor vehicle that is capable of operating on either a clean-burning alternative fuel or a traditional fuel, including, but not limited to, gasoline or diesel fuel.

486A.060 "Dedicated alternative fuel motor vehicle" defined. "Dedicated alternative fuel motor vehicle" means a motor vehicle that:

1. Operates only on an alternative fuel; or



2. Regardless of the type of fuel on which it operates, has been certified by the United States Environmental Protection Agency as being in compliance with the standards for the control of emissions from an ultra low-emission vehicle, or more stringent standards, as set forth in 40 C.F.R. § 88.104-94 or 88.105-94.

486A.090 "Flexible fueled vehicle" defined. "Flexible fueled vehicle" means a motor vehicle that is capable of operating on any mixture of an alternative fuel and a traditional fuel, including, but not limited to, gasoline or diesel fuel.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Senate Bill No. 332 adopts a legislative finding that the State's environment, particularly the quality of its air, can be improved, especially in metropolitan areas, through the use of alternative fuels and clean vehicles. The legislative finding also notes that fleets operated by state agencies and local governments can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.

The bill revises provisions governing the use of alternative fuels by certain fleet vehicles. A fleet is defined as 50 or more motor vehicles that are under the common ownership and control of a state agency or local government.

The bill requires the State Environmental Commission to adopt regulations concerning standards and requirements for clean vehicles and motor vehicles that use alternative fuels, and the acquisition of such vehicles that are operated in certain counties, including recordkeeping and reporting requirements concerning those vehicles.

Finally, the bill revises the program that provides incentives to encourage certain persons to use clean-burning fuels in motor vehicles to include instead incentives to acquire clean vehicles and motor vehicles that use alternative fuels.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 355.

Bill read second time.

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

Amendment No. 473.

"SUMMARY—Enacts the Uniform Debt-Management Services Act. (BDR 52-1279)"

"AN ACT relating to trade practices; enacting the Uniform Debt-Management Services Act; repealing the existing provisions governing the regulation of debt adjusters; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the regulation of debt adjusters by the Commissioner of Financial Institutions. (Chapter 676 of NRS) This bill repeals those provisions and enacts the Uniform Debt-Management Services Act, which provides for the regulation of providers of debt-management services by the Commissioner of Consumer Affairs.

Sections 26-38 of this bill provide for the registration of providers of debt-management services. No provider may enter into an agreement with any debtor in this State without registering as a consumer debt-management service in this State. Registration requires submission of detailed information concerning the service, including, without limitation, its financial condition, the identity of principals, locations at which service will be offered, the form for agreements with debtors and business history in other jurisdictions. To register, a service must have an effective insurance policy against fraud, dishonesty, theft and the like in an amount not less than \$250,000. It must also provide a security bond of a minimum of \$50,000 which has the Commissioner as a beneficiary. If a registration substantially duplicates one in another state, the service may offer proof of registration in that other state to satisfy the registration requirements in this State. A satisfactory application will result in a certificate to do business from the Commissioner. A yearly renewal is required.

Sections 39-49 of this bill govern agreements between debtors and providers of debt-management services. To enter into agreements with debtors, there is a disclosure requirement respecting fees and services to be offered, and the risks and benefits of entering into such a contract. The service must offer counseling services from a certified counselor or certified debt specialist, and a plan must be created by the counselor or debt specialist for debt-management service to commence. The contents of the agreements and fees that may be charged are set forth in sections 39-49. There is a penalty-free 3-day right of rescission on the part of the debtor. In addition, the debtor may cancel the agreement after 30 days, but may be subject to fees if that occurs. The service may terminate the agreement if required payments are delinquent for at least 60 days. Any payments for creditors received from a debtor must be kept in a trust account that may not be used to hold any other funds of the service. There are strict accounting requirements and periodic reporting requirements respecting funds held.

Section 50 of this bill prohibits specific acts on the part of a service, including, without limitation, misappropriation of funds in trust, settlement for more than 50 percent of a debt with a creditor without a debtor's consent, gifts or premiums to enter into an agreement and representation that settlement has occurred without certification from a creditor. Sections 51-59 of this bill provide that the enforcement of the provisions of this bill occurs at two levels, the Commissioner and the individual level. The Commissioner has investigative power, power to order an individual to cease and desist, power to assess a civil penalty up to \$10,000 and power to bring a civil action. An individual may bring a civil action for compensatory damages, including, without limitation, triple damages, if a provider of debt-management services obtains payments not authorized by the provisions of this bill, and may seek punitive damages and attorney's fees. A service has a good faith mistake defense against liability. The statute of limitations

pertaining to an action by the Commissioner is 4 years, and 2 years for a private right of action.

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

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 61, inclusive, of this act.

Sec. 2. *This chapter may be cited as the Uniform Debt-Management Services Act.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 24, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Affiliate" means:*

1. *With respect to an individual:*

(a) *The spouse of the individual;*

(b) *A sibling of the individual or the spouse of a sibling;*

(c) *An individual or the spouse of an individual who is a lineal ancestor or lineal descendant of the individual or the individual's spouse;*

(d) *An aunt, uncle, great aunt, great uncle, first cousin, niece, nephew, grandniece or grandnephew, whether related by the whole or the half blood or adoption, or the spouse of any of them; or*

(e) *Any other individual occupying the residence of the individual; and*

2. *With respect to an entity:*

(a) *A person that directly or indirectly controls, is controlled by or is under common control with the entity;*

(b) *An officer of, or an individual performing similar functions with respect to, the entity;*

(c) *A director of, or an individual performing similar functions with respect to, the entity;*

(d) *Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a person that receives or received more than \$25,000 from the entity in either the current year or the preceding year or a person that owns more than 10 percent of, or an individual who is employed by or is a director of, a person that receives or received more than \$25,000 from the entity in either the current year or the preceding year;*

(e) *An officer or director of, or an individual performing similar functions with respect to, a person described in paragraph (a);*

(f) *The spouse of, or an individual occupying the residence of, an individual described in paragraphs (a) to (e), inclusive; or*

(g) *An individual who has the relationship specified in paragraph (d) of subsection 1 to an individual or the spouse of an individual described in paragraphs (a) to (e), inclusive.*

Sec. 5. *"Agreement" means an agreement between a provider and an individual for the performance of debt-management services.*

Sec. 6. "Bank" means a financial institution, including, without limitation, a commercial bank, savings bank, savings and loan association, credit union and trust company, engaged in the business of banking, chartered under federal or state law and regulated by a federal or state banking regulatory authority.

Sec. 7. "Business address" means the physical location of a business, including, without limitation, the name and number of a street.

Sec. 8. "Certified counselor" means an individual certified by a training program or certifying organization, approved by the Commissioner, that authenticates the competence of individuals providing education and assistance to other individuals in connection with debt-management services in which an agreement contemplates that creditors will reduce finance charges or fees for late payment, default or delinquency.

Sec. 9. "Certified debt specialist" means an individual certified by a training program or certifying organization, approved by the Commissioner, that authenticates the competence of individuals providing education and assistance to other individuals in connection with debt-management services in which an agreement contemplates that creditors will settle debts for less than the full principal amount of the debt owed.

Sec. 10. "Commissioner" means the Commissioner of Consumer Affairs.

Sec. 11. "Concessions" means assent to repayment of a debt on terms more favorable to an individual than the terms of the contract between the individual and a creditor.

Sec. 12. "Day" means calendar day.

Sec. 13. "Debt-management services" means services as an intermediary between an individual and one or more creditors of the individual for the purpose of obtaining concessions, but does not include:

1. Legal services provided in an attorney-client relationship by an attorney licensed or otherwise authorized to practice law in this State;

2. Accounting services provided in an accountant-client relationship by a certified public accountant licensed to provide accounting services in this State; or

3. Financial-planning services provided in a financial planner-client relationship by a member of a financial-planning profession whose members the Commissioner, by regulation, determines are:

(a) Licensed by this State;

(b) Subject to a disciplinary mechanism;

(c) Subject to a code of professional responsibility; and

(d) Subject to a continuing education requirement.

Sec. 14. "Entity" means a person other than an individual.

Sec. 15. "Good faith" means honesty in fact and the observance of reasonable standards of fair dealing.

Sec. 16. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture or any other legal or commercial entity. The term does not include a public

corporation, government or governmental subdivision, agency or instrumentality.

Sec. 17. "Plan" means a program or strategy in which a provider furnishes debt-management services to an individual and which includes a schedule of payments to be made by or on behalf of the individual and used to pay debts owed by the individual.

Sec. 18. "Principal amount of the debt" means the amount of a debt at the time of an agreement.

Sec. 19. "Provider" means a person that provides, offers to provide or agrees to provide debt-management services directly or through others.

Sec. 20. "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 21. "Settlement fee" means a charge imposed on or paid by an individual in connection with a creditor's assent to accept in full satisfaction of a debt an amount less than the principal amount of the debt.

Sec. 22. "Sign" means, with present intent to authenticate or adopt a record:

1. To execute or adopt a tangible symbol; or
2. To attach to or logically associate with the record an electronic sound, symbol or process.

Sec. 23. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 24. "Trust account" means an account held by a provider that is:

1. Established in an insured bank;
2. Separate from other accounts of the provider or its designee;
3. Designated as a trust account or other account designated to indicate that the money in the account is not the money of the provider or its designee; and
4. Used to hold money of one or more individuals for disbursement to creditors of the individuals.

Sec. 25. 1. This chapter does not apply to an agreement with an individual who the provider has no reason to know resides in this State at the time of the agreement.

2. This chapter does not apply to a provider to the extent that the provider:

(a) Provides or agrees to provide debt-management, educational or counseling services to an individual who the provider has no reason to know resides in this State at the time the provider agrees to provide the services; or

(b) Receives no compensation for debt-management services from or on behalf of the individuals to whom it provides the services or from their creditors.

3. This chapter does not apply to the following persons or their employees when the person or the employee is engaged in the regular course of the person's business or profession:

- (a) A judicial officer, a person acting under an order of a court or an administrative agency or an assignee for the benefit of creditors;
- (b) A bank;
- (c) An affiliate, as defined in paragraph (a) of subsection 2 of section 4 of this act, of a bank if the affiliate is regulated by a federal or state banking regulatory authority; or
- (d) A title insurer, escrow company or other person that provides bill-paying services if the provision of debt-management services is incidental to the bill-paying services.

Sec. 26. 1. Except as otherwise provided in subsection 2, a provider may not provide debt-management services to an individual who it reasonably should know resides in this State at the time it agrees to provide the services, unless the provider is registered under this chapter.

2. If a provider is registered under this chapter, subsection 1 does not apply to an employee or agent of the provider.

3. The Commissioner shall maintain and publicize a list of the names of all registered providers.

Sec. 27. 1. An application for registration as a provider must be in a form prescribed by the Commissioner.

2. Subject to adjustment of dollar amounts pursuant to subsection 6 of section 54 of this act, an application for registration as a provider must be accompanied by:

- (a) The fee established by the Commissioner;
- (b) The bond required by section 35 of this act;
- (c) Identification of all trust accounts required by section 44 of this act and an irrevocable consent authorizing the Commissioner to review and examine the trust accounts;
- (d) Evidence of insurance in the amount of \$250,000:
  - (1) Against the risks of dishonesty, fraud, theft and other misconduct on the part of the applicant or a director, employee or agent of the applicant;
  - (2) Issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization approved by the Commissioner;
  - (3) With a deductible not exceeding \$5,000;
  - (4) Payable for the benefit of the applicant, this State and individuals who are residents of this State, as their interests may appear; and
  - (5) Not subject to cancellation by the applicant or the insurer until 60 days after written notice has been given to the Commissioner;
- (e) Proof of compliance with NRS 360.760 to 360.798, inclusive; and
- (f) If the applicant is exempt from taxation, evidence of nonprofit and tax-exempt status applicable to the applicant under the Internal Revenue Code, 26 U.S.C. § 501.

Sec. 28. *An application for registration must be signed under oath and include:*

1. *The applicant's name, principal business address and telephone number and all other business addresses in this State, electronic mail addresses and Internet website addresses;*

2. *All names under which the applicant conducts business;*

3. *The address of each location in this State at which the applicant will provide debt-management services or a statement that the applicant will have no such location;*

4. *The name and home address of each officer and director of the applicant and each person that owns at least 10 percent of the applicant;*

5. *Identification of every jurisdiction in which, during the 5 years immediately preceding the application:*

(a) *The applicant or any of its officers or directors have been licensed or registered to provide debt-management services; or*

(b) *Individuals have resided when they received debt-management services from the applicant;*

6. *A statement describing, to the extent it is known or should be known by the applicant, any material civil or criminal judgment or litigation and any material administrative or enforcement action by a governmental agency in any jurisdiction against the applicant, any of its officers, directors, owners or agents or any person who is authorized to have access to the trust account required by section 44 of this act;*

7. *The applicant's financial statements, audited by an accountant licensed to conduct audits, for each of the 2 years immediately preceding the application or, if it has not been in operation for the 2 years preceding the application, for the period of its existence;*

8. *Evidence of accreditation by an independent accrediting organization approved by the Commissioner;*

9. *Evidence that, within 12 months after initial employment, each of the applicant's counselors becomes certified as a certified counselor or certified debt specialist;*

10. *A description of the three most commonly used educational programs that the applicant provides or intends to provide to individuals who reside in this State and a copy of any materials used or to be used in those programs;*

11. *A description of the applicant's financial analysis and initial budget plan, including, without limitation, any form or electronic model used to evaluate the financial condition of individuals;*

12. *A copy of each form of agreement that the applicant will use with individuals who reside in this State;*

13. *The schedule of fees and charges that the applicant will use with individuals who reside in this State;*

14. *A complete set of the fingerprints of every officer of the applicant and every employee or agent of the applicant who is authorized to have access to the trust account required by section 44 of this act and written permission*

from each individual submitting a complete set of fingerprints authorizing the Commissioner to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

15. The names and addresses of all employers of each director during the 10 years immediately preceding the application;

16. A description of any ownership interest of at least 10 percent by a director, owner or employee of the applicant in:

(a) Any affiliate of the applicant; or

(b) Any entity that provides products or services to the applicant or any individual relating to the applicant's debt-management services;

17. A statement of the amount of compensation of the applicant's five most highly compensated employees for each of the 3 years immediately preceding the application or, if it has not been in operation for the 3 years preceding the application, for the period of its existence;

18. The identity of each director who is an affiliate, as defined in subsection 1 of section 4 of this act or paragraph (a), (b), (d), (e), (f) or (g) of subsection 2 of section 4 of this act, of the applicant; and

19. Any other information that the Commissioner reasonably requires to perform the Commissioner's duties under section 31 of this act.

Sec. 29. An applicant or registered provider shall notify the Commissioner within 10 days after a change in the information specified in paragraph (d) or (f) of subsection 2 of section 27 of this act or subsection 1, 3, 6, 12 or 13 of section 28 of this act.

Sec. 30. 1. Except as otherwise provided in subsection 2, the Commissioner shall make the information in an application for registration as a provider available to the public.

2. Except as otherwise provided in NRS 239.0115, the information required by subsections 7, 14 and 17 of section 28 of this act and the addresses required by subsection 4 of section 28 of this act are confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

Sec. 31. 1. Except as otherwise provided in subsections 3 and 4, the Commissioner shall issue a certificate of registration as a provider to a person that complies with sections 27 and 28 of this act.

2. If an applicant has otherwise complied with sections 27 and 28 of this act, including a timely effort to obtain the information required by subsection 14 of section 28 of this act, but the information has not been received, the Commissioner may issue a temporary certificate of registration. The temporary certificate expires not later than 180 days after issuance.

3. The Commissioner may deny registration if:

(a) The application contains information that is materially erroneous or incomplete;



(b) An officer, director or owner of the applicant has been convicted of a crime, or suffered a civil judgment, involving dishonesty or the violation of state or federal securities laws;

(c) The applicant or any of its officers, directors or owners have defaulted in the payment of money collected for others; or

(d) The Commissioner finds that the financial responsibility, experience, character or general fitness of the applicant or its owners, directors, employees or agents does not warrant belief that the business will be operated in compliance with this chapter.

4. The Commissioner shall deny registration if, with respect to an applicant that is organized as a nonprofit entity or has obtained tax-exempt status under the Internal Revenue Code, 26 U.S.C. § 501, the applicant's board of directors is not independent of the applicant's employees and agents.

5. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a board of directors is not independent for purposes of subsection 4 if more than one-fourth of its members:

(a) Are affiliates of the applicant, as defined in subsection 1 of section 4 of this act or paragraph (a), (b), (d), (e), (f) or (g) of subsection 2 of section 4 of this act; or

(b) After the date 10 years before first becoming a director of the applicant, were employed by or directors of a person that received from the applicant more than \$25,000 in either the current year or the preceding year.

Sec. 32. 1. The Commissioner shall approve or deny an initial registration as a provider within 120 days after an application is filed. In connection with a request pursuant to subsection 19 of section 28 of this act for additional information, the Commissioner may extend the 120-day period for not more than 60 days. Within 7 days after denying an application, the Commissioner, in a record, shall inform the applicant of the reasons for the denial.

2. If the Commissioner denies an application for registration as a provider or does not act on an application within the time prescribed in subsection 1, the applicant may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive.

3. Subject to subsection 4 of section 33 of this act and section 56 of this act, a registration as a provider is valid for 1 year.

Sec. 33. 1. A provider must obtain a renewal of its registration annually.

2. An application for renewal of registration as a provider must be in a form prescribed by the Commissioner, signed under oath, and:

(a) Be filed not fewer than 30 days and not more than 60 days before the registration expires;

(b) Be accompanied by the fee established by the Commissioner and the bond required by section 35 of this act;

(c) Contain the matter required for initial registration as a provider by subsections 8 and 9 of section 28 of this act and a financial statement, audited by an accountant licensed to conduct audits, for the applicant's fiscal year immediately preceding the application;

(d) Disclose any changes in the information contained in the applicant's application for registration or its immediately previous application for renewal, as applicable, and if an application is otherwise complete and the applicant has made a timely effort to obtain the information required by subsection 14 of section 28 of this act but the information has not been received, the Commissioner may issue a temporary renewal of registration which expires not later than 180 days after issuance;

(e) Supply evidence of insurance in an amount equal to the larger of \$250,000 or the highest daily balance in the trust account required by section 44 of this act during the 6-month period immediately preceding the application:

(1) Against risks of dishonesty, fraud, theft and other misconduct on the part of the applicant or a director, employee or agent of the applicant;

(2) Issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization approved by the Commissioner;

(3) With a deductible not exceeding \$5,000;

(4) Payable for the benefit of the applicant, this State and the individuals who are residents of this State, as their interests may appear; and

(5) Not subject to cancellation by the applicant or the insurer until 60 days after written notice has been given to the Commissioner;

(f) Disclose the total amount of money received by the applicant pursuant to plans during the preceding 12 months from or on behalf of individuals who reside in this State and the total amount of money distributed to creditors of those individuals during that period;

(g) Disclose, to the best of the applicant's knowledge, the gross amount of money accumulated during the preceding 12 months pursuant to plans by or on behalf of individuals who reside in this State and with whom the applicant has agreements; and

(h) Provide any other information that the Commissioner reasonably requires to perform the Commissioner's duties under this section.

3. Except as otherwise provided in this subsection, the Commissioner shall make the information in an application for renewal of registration as a provider available to the public. Except as otherwise provided in NRS 239.0115, the information required by subsections 7, 14 and 17 of section 28 of this act and the addresses required by subsection 4 of section 28 of this act are confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

4. If a registered provider files a timely and complete application for renewal of registration, the registration remains effective until the

*Commissioner, in a record, notifies the applicant of a denial and states the reasons for the denial.*

*5. If the Commissioner denies an application for renewal of registration as a provider, the applicant, within 30 days after receiving notice of the denial, may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive. Subject to section 56 of this act, while the appeal is pending, the applicant must continue to provide debt-management services to individuals with whom it has agreements. If the denial is affirmed, subject to the Commissioner's order and section 56 of this act, the applicant must continue to provide debt-management services to individuals with whom it has agreements until, with the approval of the Commissioner, it transfers the agreements to another registered provider or returns to the individuals all unexpended money that is under the applicant's control.*

*Sec. 34. If a provider holds a license or certificate of registration in another state authorizing it to provide debt-management services, the provider may submit a copy of that license or certificate and the application for it instead of an application in the form prescribed by subsection 1 of section 27 of this act, section 28 of this act or subsection 2 of section 33 of this act. The Commissioner shall accept the application and the license or certificate from the other state as an application for registration as a provider or for renewal of registration as a provider, as appropriate, in this State if:*

*1. The application in the other state contains information substantially similar to or more comprehensive than that required in an application submitted in this State;*

*2. The applicant provides the information required by subsections 1, 3, 10, 12 and 13 of section 28 of this act; and*

*3. The applicant, under oath, certifies that the information contained in the application is current or, to the extent it is not current, supplements the application to make the information current.*

*Sec. 35. 1. Except as otherwise provided in section 36 of this act, a provider that is required to be registered under this chapter shall file a surety bond with the Commissioner, which must:*

*(a) Be in effect during the period of registration and for 2 years after the provider ceases providing debt-management services to individuals in this State; and*

*(b) Run to this State for the benefit of this State and of individuals who reside in this State when they agree to receive debt-management services from the provider, as their interests may appear.*

*2. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a surety bond filed pursuant to subsection 1 must:*

*(a) Be in the amount of \$50,000 or other larger or smaller amount that the Commissioner determines is warranted by the financial condition and business experience of the provider, the history of the provider in performing*

*debt-management services, the risk to individuals and any other factor the Commissioner considers appropriate;*

*(b) Be issued by a bonding, surety or insurance company authorized to do business in this State and rated at least A by a nationally recognized rating organization; and*

*(c) Have payment conditioned upon noncompliance of the provider or its agent with this chapter.*

*3. If the principal amount of a surety bond is reduced by payment of a claim or a judgment, the provider shall immediately notify the Commissioner and, within 30 days after notice by the Commissioner, file a new or additional surety bond in an amount set by the Commissioner. The amount of the new or additional bond must be at least the amount of the bond immediately before payment of the claim or judgment. If for any reason a surety terminates a bond, the provider shall immediately file a new surety bond in the amount of \$50,000 or other amount determined pursuant to subsection 2.*

*4. The Commissioner or an individual may obtain satisfaction out of the surety bond procured pursuant to this section if:*

*(a) The Commissioner assesses expenses under paragraph (a) of subsection 2 of section 54 of this act, issues a final order under paragraph (b) of subsection 1 of section 55 of this act or recovers a final judgment under paragraph (d) or (e) of subsection 1 of section 55 of this act or subsection 4 of section 55 of this act; or*

*(b) An individual recovers a final judgment pursuant to subsection 1 or 2 of section 57 of this act or paragraph (a), (b) or (d) of subsection 3 of section 57 of this act.*

*5. If claims against a surety bond exceed or are reasonably expected to exceed the amount of the bond, the Commissioner, on the initiative of the Commissioner or on petition of the surety, shall, unless the proceeds are adequate to pay all costs, judgments and claims, distribute the proceeds in the following order:*

*(a) To satisfaction of a final order or judgment under paragraph (b), (d) or (e) of subsection 1 of section 55 of this act or subsection 4 of section 55 of this act;*

*(b) To final judgments recovered by individuals pursuant to subsection 1 or 2 of section 57 of this act or paragraph (a), (b) or (d) of subsection 3 of section 57 of this act, pro rata;*

*(c) To claims of individuals established to the satisfaction of the Commissioner, pro rata; and*

*(d) If a final order or judgment is issued under subsection 1 of section 55 of this act, to the expenses charged pursuant to paragraph (a) of subsection 2 of section 54 of this act.*

*Sec. 36. 1. Instead of the surety bond required by section 35 of this act, a provider may deliver to the Commissioner, in the amount required by subsection 2 of section 35 of this act, and, except as otherwise provided in*

subparagraph (1) of paragraph (b), payable or available to this State and to individuals who reside in this State when they agree to receive debt-management services from the provider, as their interests may appear, if the provider or its agent does not comply with this chapter:

(a) A certificate of insurance issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization, approved by the Commissioner and with no deductible, or, if the provider supplies a bond in the amount of \$5,000, a deductible not exceeding \$5,000; or

(b) With the approval of the Commissioner:

(1) An irrevocable letter of credit, issued or confirmed by a bank approved by the Commissioner, payable upon presentation of a certificate by the Commissioner stating that the provider or its agent has not complied with this chapter; or

(2) Bonds or other obligations of the United States or guaranteed by the United States or bonds or other obligations of this State or a political subdivision of this State, to be deposited and maintained with a bank approved by the Commissioner for this purpose.

2. If a provider furnishes a substitute pursuant to subsection 1, the provisions of subsections 1, 3, 4 and 5 of section 35 of this act apply to the substitute.

Sec. 37. A provider shall act in good faith in all matters under this chapter.

Sec. 38. A provider that is required to be registered under this chapter shall maintain a toll-free communication system, staffed at a level that reasonably permits an individual to speak to a certified counselor, certified debt specialist or customer service representative, as appropriate, during ordinary business hours.

Sec. 39. 1. Before providing debt-management services, a registered provider shall give the individual an itemized list of goods and services and the charges for each. The list must be clear and conspicuous, be in a record the individual may keep whether or not the individual assents to an agreement and describe the goods and services the provider offers:

(a) Free of additional charge if the individual enters into an agreement;

(b) For a charge if the individual does not enter into an agreement; and

(c) For a charge if the individual enters into an agreement, using the following terminology, as applicable, and format:

Set-up fee

---

dollar amount of fee

Monthly service fee

---

dollar amount of fee or method  
of determining amount

Settlement fee

---

dollar amount of fee or method  
of determining amount

*Goods and services in addition to those provided in connection with a plan:*

<u>(item)</u>	<u>dollar amount or method of determining amount</u>
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<u>(item)</u>	<u>dollar amount or method of determining amount</u>
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2. A provider may not furnish debt-management services unless the provider, through the services of a certified counselor or certified debt specialist:

(a) Provides the individual with reasonable education about the management of personal finance;

(b) Has prepared a financial analysis; and

(c) If the individual is to make regular, periodic payments:

(1) Has prepared a plan for the individual;

(2) Has made a determination, based on the provider's analysis of the information provided by the individual and otherwise available to the provider, that the plan is suitable for the individual and the individual will be able to meet the payment obligations under the plan; and

(3) Believes that each creditor of the individual listed as a participating creditor in the plan will accept payment of the individual's debts as provided in the plan.

3. Before an individual assents to an agreement, a provider shall:

(a) Provide the individual with a copy of the analysis and plan required by subsection 2 in a record which identifies the provider and which the individual may keep whether or not the individual assents to the agreement;

(b) Inform the individual of the availability, at the individual's option, of assistance by a toll-free communication system or in person to discuss the financial analysis and plan required by subsection 2; and

(c) With respect to all creditors identified by the individual or otherwise known by the provider to be creditors of the individual, provide the individual with a list of:

(1) Creditors that the provider expects to participate in the plan and grant concessions;

(2) Creditors that the provider expects to participate in the plan but not grant concessions;

(3) Creditors that the provider expects not to participate in the plan; and

(4) All other creditors.

4. Before an individual assents to an agreement, the provider shall inform the individual ~~[ ] in a separate record which contains nothing else, which is given separately and which~~ the individual may keep ~~;~~ ~~[whether or not the individual assents to the agreement.]~~

(a) Of the name and business address of the provider;

(b) That plans are not suitable for all individuals and the individual may ask the provider about other ways, including, without limitation, bankruptcy, to deal with indebtedness;

(c) That establishment of a plan may adversely affect the individual's credit rating or credit scores;

(d) That nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including, without limitation, litigation;

(e) Unless it is not true, that the provider may receive compensation from the creditors of the individual; and

(f) That, unless the individual is insolvent, if a creditor settles for less than the full amount of the debt, the plan may result in the creation of taxable income to the individual, even though the individual does not receive any money.

5. If a provider may receive payments from an individual's creditors and the plan contemplates that the individual's creditors will reduce finance charges or fees for late payment, default or delinquency, the provider may comply with subsection 4 by providing the following disclosure, surrounded by black lines:

**IMPORTANT INFORMATION FOR YOU TO CONSIDER**

(1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

(2) Using a debt-management plan may make it harder for you to obtain credit.

(3) We may receive compensation for our services from your creditors.

---

Name and business address of provider

6. If a provider will not receive payments from an individual's creditors and the plan contemplates that the individual's creditors will reduce finance charges or fees for late payment, default or delinquency, a provider may comply with subsection 4 by providing the following disclosure, surrounded by black lines:

**IMPORTANT INFORMATION FOR YOU TO CONSIDER**

(1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

(2) Using a debt-management plan may make it harder for you to obtain credit.

---

Name and business address of provider

7. If an agreement contemplates that creditors will settle debts for less than the full principal amount of the debt owed, a provider may comply with subsection 4 by providing the following disclosure, surrounded by black lines:

*IMPORTANT INFORMATION FOR YOU TO CONSIDER*

(1) *Our program is not right for all individuals, and you may ask us to provide information about bankruptcy and other ways to deal with your debts.*

(2) *Nonpayment of your debts under our program may:*

*Hurt your credit rating or credit scores;*

*Lead your creditors to increase finance and other charges; and*

*Lead your creditors to undertake activity, including lawsuits, to collect the debts.*

(3) *Reduction of debt under our program may result in taxable income to you, even though you will not actually receive any money.*

---

*Name and business address of provider*

Sec. 40. 1. *A provider may satisfy the requirements of section 39, 41 or 49 of this act by means of the Internet or other electronic means if the provider obtains a consumer's consent in the manner provided by section 101(c)(1) of the federal act.*

2. *The disclosures and materials required by section 39, 41 or 49 of this act must be presented in a form that is capable of being accurately reproduced for later reference.*

3. *With respect to disclosure by means of an Internet website, the disclosure of the information required by subsection 4 of section 39 of this act must appear on one or more screens that:*

*(a) Contain no other information; and*

*(b) The individual must see before proceeding to assent to formation of an agreement.*

4. *At the time of providing the materials and agreement required by subsections 3 and 4 of section 39 of this act and sections 41 and 49 of this act, a provider shall inform the individual that upon electronic, telephonic or written request, it will send the individual a written copy of the materials, and shall comply with a request as provided in subsection 5.*

5. *If a provider is requested, before the expiration of 90 days after an agreement is completed or terminated, to send a written copy of the materials required by subsections 3 and 4 of section 39 of this act or section 41 or 49 of this act, the provider shall send them at no charge within 3 business days after the request, but the provider need not comply with a request more than once per calendar month or if it reasonably believes the request is made for purposes of harassment. If a request is made more than 90 days after an agreement is completed or terminated, the provider shall send within a reasonable time a written copy of the materials requested.*

6. *A provider that maintains an Internet website shall disclose on the home page of its website or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals its contents:*

*(a) Its name and all names under which it does business;*



(b) *Its principal business address, telephone number and electronic mail address, if any; and*

(c) *The names of its principal officers.*

7. *Subject to subsection 8, if a consumer who has consented to electronic communication in the manner provided by section 101 of the federal act withdraws consent as provided in the federal act, a provider may terminate its agreement with the consumer.*

8. *If a provider wishes to terminate an agreement with a consumer pursuant to subsection 7, it shall notify the consumer that it will terminate the agreement unless the consumer, within 30 days after receiving the notification, consents to electronic communication in the manner provided in section 101(c) of the federal act. If the consumer consents, the provider may terminate the agreement only as permitted by subparagraph ~~+(7)+~~ (6) of paragraph (f) of subsection 1 of section 41 of this act.*

9. *As used in this section:*

(a) *"Consumer" means an individual who seeks or obtains goods or services that are used primarily for personal, family or household purposes.*

(b) *"Federal act" means the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq.*

Sec. 41. 1. *An agreement must:*

(a) *Be in a record;*

(b) *Be dated and signed by the provider and the individual;*

(c) *Include the name of the individual and the address where the individual resides;*

(d) *Include the name, business address and telephone number of the provider;*

(e) *Be delivered to the individual immediately upon formation of the agreement; and*

(f) *Disclose:*

(1) *The services to be provided;*

(2) *The amount, or method of determining the amount, of all fees, individually itemized, to be paid by the individual;*

(3) *The schedule of payments to be made by or on behalf of the individual, including the amount of each payment, the date on which each payment is due and an estimate of the date of the final payment;*

(4) *If a plan provides for regular periodic payments to creditors:*

(I) *Each creditor of the individual to which payment will be made, the amount owed to each creditor and any concessions the provider reasonably believes each creditor will offer; ~~and~~*

(II) *The schedule of expected payments to each creditor, including the amount of each payment and the date on which it will be made; and*

~~+(5)+~~ (III) *Each creditor that the provider believes will not participate in the plan and to which the provider will not direct payment;*

~~+(6)+~~ (5) *How the provider will comply with its obligations under subsection 1 of section 49 of this act;*

~~[(7)]~~ (6) That the provider may terminate the agreement for good cause, upon return of unexpended money of the individual;

~~[(8)]~~ (7) That the individual may cancel the agreement as provided in section 42 of this act;

~~[(9)]~~ (8) That the individual may contact the Commissioner with any questions or complaints regarding the provider; and

~~[(10)]~~ (9) The address, telephone number and Internet address of the website of the Commissioner.

2. For purposes of paragraph (e) of subsection 1, delivery of an electronic record occurs when it is made available in a format in which the individual may retrieve, save and print it and the individual is notified that it is available.

3. If the Commissioner supplies the provider with any information required under subparagraph ~~[(10)]~~ 9 of paragraph (f) of subsection 1, the provider may comply with that requirement only by disclosing the information supplied by the Commissioner.

4. An agreement must provide that:

(a) The individual has a right to terminate the agreement at any time, without penalty or obligation, by giving the provider written or electronic notice, in which event:

(1) The provider will refund all unexpended money that the provider or its agent has received from or on behalf of the individual for the reduction or satisfaction of the individual's debt;

(2) With respect to an agreement which contemplates that creditors will settle debts for less than the principal amount of the debt, the provider will refund 65 percent of any portion of the set-up fee that has not been credited against the settlement fee; and

(3) All powers of attorney granted by the individual to the provider are revoked and ineffective;

(b) The individual authorizes any bank in which the provider or its agent has established a trust account to disclose to the Commissioner any financial records relating to the trust account; and

(c) The provider will notify the individual within 5 days after learning of a creditor's final decision to reject or withdraw from a plan and that this notice will include:

(1) The identity of the creditor; and

(2) The right of the individual to modify or terminate the agreement.

5. An agreement may confer on a provider a power of attorney to settle the individual's debt for not more than 50 percent of the ~~principal~~ outstanding amount of the debt. An agreement may not confer a power of attorney to settle a debt for more than 50 percent of that amount, but may confer a power of attorney to negotiate with creditors of the individual on behalf of the individual. An agreement must provide that the provider will obtain the assent of the individual after a creditor has assented to a

settlement for more than 50 percent of the ~~principal~~ outstanding amount of the debt.

6. An agreement may not:

(a) Provide for application of the law of any jurisdiction other than the United States and this State;

(b) Except as permitted by section 2 of the Federal Arbitration Act, 9 U.S.C. § 2, or NRS 38.206 to 38.248, inclusive, contain a provision that modifies or limits otherwise available forums or procedural rights, including, without limitation, the right to trial by jury, that are generally available to the individual under law other than this chapter;

(c) Contain a provision that restricts the individual's remedies under this chapter or law other than this chapter; or

(d) Contain a provision that:

(1) Limits or releases the liability of any person for not performing the agreement or for violating this chapter; or

(2) Indemnifies any person for liability arising under the agreement or this chapter.

7. All rights and obligations specified in subsection 4 and section 42 of this act exist even if not provided in the agreement. A provision in an agreement which violates subsection 4, 5 or 6 is void.

Sec. 42. 1. An individual may cancel an agreement before midnight of the third business day after the individual assents to it, unless the agreement does not comply with subsection 2 or section 41 or 50 of this act, in which event the individual may cancel the agreement within 30 days after the individual assents to it. To exercise the right to cancel, the individual must give notice in a record to the provider. Notice by mail is given when mailed.

2. An agreement must be accompanied by a form that contains in boldface type, surrounded by bold black lines:

**NOTICE OF RIGHT TO CANCEL**

You may cancel this agreement, without any penalty or obligation, at any time before midnight of the third business day that begins the day after you agree to it by electronic communication or by signing it.

To cancel this agreement during this period, send an e-mail to \_\_\_\_\_ (e-mail address of provider) or mail or deliver a signed, dated copy of this notice, or any other written notice to \_\_\_\_\_ (name of provider) at \_\_\_\_\_ (address of provider) before midnight on \_\_\_\_\_ (date).

If you cancel this agreement within the 3-day period, we will refund all money you already have paid us.

You also may terminate this agreement at any later time, but we may not be required to refund fees you have paid us.

I cancel this agreement,

\_\_\_\_\_  
Print your name

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Signature

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Date

3. If a personal financial emergency necessitates the disbursement of an individual's money to one or more of the individual's creditors before the expiration of 3 days after an agreement is signed, an individual may waive the right to cancel. To waive the right, the individual must send or deliver a signed, dated statement in the individual's own words describing the circumstances that necessitate a waiver. The waiver must explicitly waive the right to cancel. A waiver by means of a standard form record is void.

Sec. 43. Unless the Commissioner, by regulation, provides otherwise, the disclosures and documents required by this chapter must be in English. If a provider communicates with an individual primarily in a language other than English, the provider must furnish a translation into the other language of the disclosures and documents required by this chapter.

Sec. 44. 1. All money paid to a provider by or on behalf of an individual for distribution to creditors pursuant to a plan is held in trust. Within 2 business days after receipt, the provider shall deposit the money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services.

2. Money held in trust by a provider is not property of the provider or its designee. The money is not available to creditors of the provider or its designee, except an individual from whom or on whose behalf the provider received money, to the extent that the money has not been disbursed to creditors of the individual.

3. A provider shall:

(a) Maintain separate records of account for each individual to whom the provider is furnishing debt-management services;

(b) Disburse money paid by or on behalf of the individual to creditors of the individual as disclosed in the agreement, except that ~~if~~

~~(1) The~~ the provider may delay payment to the extent that a payment by the individual is not final; and

~~(2) If a plan provides for regular periodic payments to creditors, the disbursement must comply with the due dates established by each creditor; and~~

(c) Promptly correct any payments which are not made or which are misdirected as a result of an error by the provider or other person in control of the trust account and reimburse the individual for any costs or fees imposed by a creditor as a result of the failure to pay or misdirection.

4. A provider may not commingle money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services with money of other persons.

5. A trust account must at all times have a cash balance equal to the sum of the balances of each individual's account.

6. If a provider has established a trust account pursuant to subsection 1, the provider shall reconcile the trust account at least once a month. The reconciliation must compare the cash balance in the trust account with the sum of the balances in each individual's account. If the provider or its designee has more than one trust account, each trust account must be individually reconciled.

7. If a provider discovers, or has a reasonable suspicion of, embezzlement or other unlawful appropriation of money held in trust, the provider immediately shall notify the Commissioner by a method approved by the Commissioner. Unless the Commissioner, by regulation, provides otherwise, within 5 days thereafter, the provider shall give notice to the Commissioner describing the remedial action taken or to be taken.

8. If an individual terminates an agreement or it becomes reasonably apparent to a provider that a plan has failed, the provider shall promptly refund to the individual all money paid by or on behalf of the individual which has not been paid to creditors, less fees that are payable to the provider under section 45 of this act.

9. Before relocating a trust account from one bank to another, a provider shall inform the Commissioner of the name, business address and telephone number of the new bank. As soon as practicable, the provider shall inform the Commissioner of the account number of the trust account at the new bank.

Sec. 45. 1. A provider may not impose directly or indirectly a fee or other charge on an individual or receive money from or on behalf of an individual for debt-management services except as permitted by this section.

2. A provider may not impose charges or receive payment for debt-management services until the provider and the individual have signed an agreement that complies with sections 41 and 50 of this act.

3. If an individual assents to an agreement, a provider may not impose a fee or other charge for educational or counseling services or the like, except as otherwise provided in this subsection and subsection 4 of section 50 of this act. The Commissioner may authorize a provider to charge a fee based on the nature and extent of the educational or counseling services furnished by the provider.

4. Subject to adjustment of dollar amounts pursuant to subsection 6 of section 54 of this act, the following rules apply:

(a) If an individual assents to a plan which contemplates that creditors will reduce finance charges or fees for late payment, default or delinquency, the provider may charge ~~fees~~, not including money provided by creditors to support educational or counseling services concerning personal finance provided by nonprofit entities:

(1) A fee not to exceed \$50 for consultation, obtaining a credit report, setting up an account and the like; and

(2) A monthly service fee, not to exceed \$10 times the number of ~~creditors~~ accounts remaining in a plan at the time the fee is assessed, but not more than \$50 in any month.

(b) If an individual assents to an agreement which contemplates that creditors will settle debts for less than the principal amount of the debt, a provider may charge:

(1) Subject to subsection 4 of section 41 of this act, a fee for consultation, obtaining a credit report, setting up an account and the like, in an amount not to exceed the lesser of \$400 and 4 percent of the debt in the plan at the inception of the plan; and

(2) A monthly service fee, not to exceed \$10 times the number of ~~creditors~~ accounts remaining in a plan at the time the fee is assessed, but not more than \$50 in any month.

(c) A provider may not impose or receive fees under both paragraphs (a) and (b).

(d) Except as otherwise provided in subsection 4 of section 50 of this act, if an individual does not assent to an agreement, a provider may receive for educational or counseling services it provides to the individual a fee not to exceed \$100 or, with the approval of the Commissioner, a larger fee. The Commissioner may approve a fee larger than \$100 if the nature and extent of the educational or counseling services warrant the larger fee.

5. If, before the expiration of 90 days after the completion or termination of educational or counseling services, an individual assents to an agreement, the provider shall refund to the individual any fee paid pursuant to paragraph (d) of subsection 4.

6. Except as otherwise provided in subsections 3 and 4, if an agreement contemplates that creditors will settle an individual's debts for less than the principal amount of the debt, compensation for services in connection with settling ~~for~~ debt may not exceed ~~for~~ with respect to each debt, 30 percent of the excess of the principal amount of the debt over the amount paid the creditor pursuant to the agreement less, to the extent it has not been credited against an earlier settlement fee:

~~(a) The fee charged pursuant to subparagraph (1) of paragraph (b) of subsection 4; and~~

~~(b) The aggregate of fees charged pursuant to subparagraph (2) of paragraph (b) of subsection 4.~~ one of the following applicable settlement fee limits, the terms of which must be clearly disclosed in the agreement:

(a) With respect to agreements in which a flat settlement fee is charged based on the overall amount of included debt, the total aggregate amount of fees charged to an individual under this chapter, including fees charged under subparagraphs (1) and (2) of paragraph (b) of subsection 4, may not exceed 17 percent of the principal amount of debt included in the agreement at the agreement's inception. The flat settlement fee authorized under this paragraph must be assessed in equal monthly payments over not less than half of the length of the plan, as estimated at the plan's inception, unless:

(1) Voluntarily accelerated by the individual in a separate record; and

(2) Offers of settlement by creditors have been obtained on at least half of the outstanding debt included in the agreement.

(b) With respect to agreements in which fees are calculated as a percentage of the amount saved by an individual, a settlement fee may not exceed 30 percent of the excess of the outstanding amount of each debt over the amount actually paid to the creditor, as calculated at the time of settlement. Settlement fees authorized under this paragraph must become billable only as debts are settled, and the total aggregate amount of fees charged to an individual under this paragraph, including fees charged under subparagraphs (1) and (2) of paragraph (b) of subsection 4, may not exceed 20 percent of the principal amount of debt included in the agreement at the agreement's inception.

→ A provider may not impose or receive fees under both paragraphs (a) and (b).

7. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, if a payment to a provider by an individual under this chapter is dishonored, a provider may impose a reasonable charge on the individual, not to exceed the lesser of \$25 and the amount permitted by law other than this chapter.

Sec. 46. A provider may not solicit a voluntary contribution from an individual or an affiliate of the individual for any service provided to the individual. A provider may accept voluntary contributions from an individual but, until 30 days after completion or termination of a plan, the aggregate amount of money received from or on behalf of the individual may not exceed the total amount the provider may charge the individual under section 45 of this act.

Sec. 47. 1. If a provider imposes a fee or other charge or receives money or other payments not authorized by section 45 or 46 of this act, the individual may void the agreement and recover as provided in section 57 of this act.

2. If a provider is not registered as required by this chapter when an individual assents to an agreement, the agreement is voidable by the individual.

3. If an individual voids an agreement under subsection 2, the provider does not have a claim against the individual for breach of contract or for restitution.

Sec. 48. 1. If an individual who has entered into an agreement fails for 60 days to make payments required by the agreement, a provider may terminate the agreement.

2. If a provider or an individual terminates an agreement, the provider shall immediately return to the individual:

(a) Any money of the individual held in trust for the benefit of the individual; and

(b) Sixty-five percent of any portion of the set-up fee received pursuant to paragraph (b) of subsection 4 of section 45 of this act which has not been credited against settlement fees.

Sec. 49. 1. A provider shall provide the accounting required by subsection 2:

(a) Upon cancellation or termination of an agreement; and

(b) Before cancellation or termination of any agreement:

(1) At least once each month; and

(2) Within 5 business days after a request by an individual, but the provider need not comply with more than one request in any calendar month.

2. A provider, in a record, shall provide each individual for whom it has established a plan an accounting of the following information:

(a) The amount of money received from the individual since the last report;

(b) The amounts and dates of disbursement made on the individual's behalf, or by the individual upon the direction of the provider, since the last report to each creditor listed in the plan;

(c) The amounts deducted from the amount received from the individual;

(d) The amount held in reserve; and

(e) If, since the last report, a creditor has agreed to accept as payment in full an amount less than the principal amount of the debt owed by the individual:

(1) The total amount and terms of the settlement;

(2) The amount of the debt when the individual assented to the plan;

(3) The amount of the debt when the creditor agreed to the settlement;

and

(4) The calculation of a settlement fee.

3. A provider shall maintain records for each individual for whom it provides debt-management services for 5 years after the final payment made by the individual and produce a copy of them to the individual within a reasonable time after a request for them. The provider may use electronic or other means of storage of the records.

Sec. 50. 1. A provider may not, directly or indirectly:

(a) Misappropriate or misapply money held in trust;

(b) Settle a debt on behalf of an individual for more than 50 percent of the ~~principal~~ outstanding amount of the debt owed a creditor, unless the individual assents to the settlement after the creditor has assented;

(c) Take a power of attorney that authorizes it to settle a debt, unless the power of attorney expressly limits the provider's authority to settle debts for not more than 50 percent of the ~~principal~~ outstanding amount of the debt owed a creditor;

(d) Exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;

(e) Initiate a transfer from an individual's account at a bank or with another person unless the transfer is:



- (1) A return of money to the individual; or
- (2) Before termination of an agreement, properly authorized by the agreement and this chapter and for:
  - (I) Payment to one or more creditors pursuant to an agreement; or
  - (II) Payment of a fee;
- (f) Offer a gift or bonus, premium, reward or other compensation to an individual for executing an agreement;
- (g) Offer, pay or give a gift or bonus, premium, reward or other compensation to a person for referring a prospective customer, if the person making the referral has a financial interest in the outcome of debt-management services provided to the customer, unless neither the provider nor the person making the referral communicates to the prospective customer the identity of the source of the referral;
- (h) Receive a bonus, commission or other benefit for referring an individual to a person;
- (i) Structure a plan in a manner that would result in a negative amortization of any of an individual's debts, unless a creditor that is owed a negatively amortizing debt agrees to refund or waive the finance charge upon payment of the principal amount of the debt;
- (j) Compensate its employees on the basis of a formula that incorporates the number of individuals the employee induces to enter into agreements;
- (k) Settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification by the creditor that the payment is in full settlement of the debt ~~+~~ or is part of a payment plan, the terms of which are included in the certification, that on completion will lead to full settlement of the debt:
  - (l) Make a representation that:
    - (1) The provider will furnish money to pay bills or prevent attachments;
    - (2) Payment of a certain amount will permit satisfaction of a certain amount or range of indebtedness; or
    - (3) Participation in a plan will or may prevent litigation, garnishment, attachment, repossession, foreclosure, eviction or loss of employment;
  - (m) Misrepresent that it is authorized or competent to furnish legal advice or perform legal services;
  - (n) Represent in its agreements, disclosures required by this chapter, advertisements or Internet website that it is a not-for-profit entity unless it is organized and properly operating as a not-for-profit entity under the law of the state in which it was formed or a tax-exempt entity unless it has received certification of tax-exempt status from the Internal Revenue Service and is properly operating as a not-for-profit entity under the law of the state in which it was formed;
  - (o) Take a confession of judgment or power of attorney to confess judgment against an individual; or

(p) Employ an unfair, unconscionable or deceptive act or practice, including, without limitation, the knowing omission of any material information.

2. If a provider furnishes debt-management services to an individual, the provider may not, directly or indirectly:

(a) Purchase a debt or obligation of the individual;

(b) Receive from or on behalf of the individual:

(1) A promissory note or other negotiable instrument other than a check or a demand draft; or

(2) A postdated check or demand draft;

(c) Lend money or provide credit to the individual, except as a deferral of a settlement fee at no additional expense to the individual;

(d) Obtain a mortgage or other security interest from any person in connection with the services provided to the individual;

(e) Except as permitted by federal law, disclose the identity or identifying information of the individual or the identity of the individual's creditors, except to:

(1) The Commissioner, upon proper demand;

(2) A creditor of the individual, to the extent necessary to secure the cooperation of the creditor in a plan; or

(3) The extent necessary to administer the plan;

(f) Except as otherwise provided in subsection 6 of section 45 of this act, provide the individual less than the full benefit of a compromise of a debt arranged by the provider;

(g) Charge the individual for or provide credit or other insurance, coupons for goods or services, membership in a club, access to computers or the Internet or any other matter not directly related to debt-management services or educational or counseling services concerning personal finance ~~++~~, except to the extent such services are expressly authorized by the Commissioner; or

(h) Furnish legal advice or perform legal services, unless the person furnishing that advice to or performing those services for the individual is licensed to practice law.

3. This chapter does not authorize any person to engage in the practice of law.

4. A provider may not receive a gift or bonus, premium, reward or other compensation, directly or indirectly, for advising, arranging or assisting an individual in connection with obtaining an extension of credit or other service from a lender or service provider, except for educational or counseling services required in connection with a government-sponsored program.

5. Unless a person supplies goods, services or facilities generally and supplies them to the provider at a cost no greater than the cost the person generally charges to others, a provider may not purchase goods, services or

facilities from the person if an employee or a person that the provider should reasonably know is an affiliate of the provider:

- (a) Owns more than 10 percent of the person; or
- (b) Is an employee or affiliate of the person.

Sec. 51. Not later than 30 days after a provider has been served with notice of a civil action for violation of this chapter by or on behalf of an individual who resides in this State at either the time of an agreement or the time the notice is served, the provider shall notify the Commissioner in a record that it has been sued.

Sec. 52. 1. If the agreements of a provider contemplate that creditors will reduce finance charges or fees for late payment, default or delinquency and the provider advertises debt-management services, it shall disclose, in an easily comprehensible manner, that using a debt-management plan may make it harder for the individual to obtain credit.

2. If the agreements of a provider contemplate that creditors will settle for less than the full principal amount of the debt and the provider advertises debt-management services, it shall disclose, in an easily comprehensible manner, the information specified in paragraphs (c) and (d) of subsection 4 of section 39 of this act.

Sec. 53. If a provider delegates any of its duties or obligations under an agreement or this chapter to another person, including, without limitation, an independent contractor, the provider is liable for conduct of the person which, if done by the provider, would violate the agreement or this chapter.

Sec. 54. 1. The Commissioner may act on his own initiative or in response to complaints and may receive complaints, take action to obtain voluntary compliance with this chapter, refer cases to the Attorney General and seek or provide remedies as provided in this chapter.

2. The Commissioner may investigate and examine, in this State or elsewhere, by subpoena or otherwise, the activities, books, accounts and records of a person that provides or offers to provide debt-management services, or a person to which a provider has delegated its obligations under an agreement or this chapter, to determine compliance with this chapter. Information that identifies individuals who have agreements with the provider must not be disclosed to the public. In connection with the investigation, the Commissioner may:

- (a) Charge the person the reasonable expenses necessarily incurred to conduct the examination;
- (b) Require or permit a person to file a statement under oath as to all the facts and circumstances of a matter to be investigated; and
- (c) Seek a court order authorizing seizure from a bank at which the person maintains a trust account required by section 44 of this act, any or all money, books, records, accounts and other property of the provider that is in the control of the bank and relates to individuals who reside in this State.

3. The Commissioner may adopt regulations to implement the provisions of this chapter.

4. *The Commissioner may enter into cooperative arrangements with any other federal or state agency having authority over providers and may exchange with any of those agencies information about a provider, including, without limitation, information obtained during an examination of the provider.*

5. *The Commissioner, by regulation, shall establish reasonable fees to be paid by providers for the expense of administering this chapter. The Commissioner may, in his discretion, establish a reduced fee schedule for providers that are qualified nonprofit entities.*

6. *The Commissioner, by regulation, shall adopt dollar amounts instead of those specified in sections 4, 27, 31, 35, 45, 55 and 57 of this act to reflect inflation, as measured by the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, or, if that Index is not available, another index adopted by regulation by the Commissioner. The Commissioner shall adopt a base year and adjust the dollar amounts, effective on July 1 of each year, if the change in the index from the base year, as of December 31 of the preceding year, is at least 10 percent. The dollar amount must be rounded to the nearest \$100, except that the amounts in section 45 of this act must be rounded to the nearest dollar.*

7. *The Commissioner shall notify registered providers of any change in dollar amounts made pursuant to subsection 6 and make that information available to the public.*

Sec. 55. 1. *The Commissioner may enforce this chapter and regulations adopted under this chapter by taking one or more of the following actions:*

(a) *Ordering a provider or a director, employee or other agent of a provider to cease and desist from any violations;*

(b) *Ordering a provider or a person that has caused a violation to correct the violation, including, without limitation, making restitution of money or property to a person aggrieved by a violation;*

(c) *Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, imposing on a provider or a person that has caused a violation a civil penalty not to exceed \$10,000 for each violation;*

(d) *Prosecuting a civil action to:*

(1) *Enforce an order; or*

(2) *Obtain restitution or an injunction or other equitable relief, or both;*

*or*

(e) *Intervening in an action brought under section 57 of this act.*

2. *Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, if a person violates or knowingly authorizes, directs or aids in the violation of a final order issued under paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed \$20,000 for each violation.*

3. *The Commissioner may maintain an action to enforce this chapter in any county.*

4. *The Commissioner may recover the reasonable costs of enforcing this chapter under subsections 1, 2 and 3, including, without limitation, attorney's fees based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.*

5. *In determining the amount of a civil penalty to impose under subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator, the deleterious effect of the violation on the public, the net worth of the violator and any other factor the Commissioner considers relevant to the determination of the civil penalty.*

Sec. 56. 1. *The Commissioner may suspend, revoke or deny renewal of a provider's registration if:*

(a) *A fact or condition exists that, if it had existed when the registrant applied for registration as a provider, would have been a reason for denying registration;*

(b) *The provider has committed a material violation of this chapter or a rule or order of the Commissioner under this chapter;*

(c) *The provider is insolvent;*

(d) *The provider or an employee or affiliate of the provider has refused to permit the Commissioner to make an examination authorized by this chapter, failed to comply with paragraph (b) of subsection 2 of section 54 of this act within 15 days after request, or made a material misrepresentation or omission in complying with paragraph (b) of subsection 2 of section 54 of this act; or*

(e) *The provider has not responded within a reasonable time and in an appropriate manner to communications from the Commissioner.*

2. *If a provider does not comply with subsection 6 of section 44 of this act or if the Commissioner otherwise finds that the public health or safety or general welfare requires emergency action, the Commissioner may order a summary suspension of the provider's registration, effective on the date specified in the order.*

3. *If the Commissioner suspends, revokes or denies renewal of the registration of a provider, the Commissioner may seek a court order authorizing seizure of any or all of the money in a trust account required by section 44 of this act, books, records, accounts and other property of the provider which are located in this State.*

4. *If the Commissioner suspends or revokes a provider's registration, the provider may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive.*

5. *As used in this section, "insolvent" means:*

(a) *Having generally ceased to pay debts in the ordinary course of business other than as a result of good faith dispute;*

(b) *Being unable to pay debts as they become due; or*

*(c) Being insolvent within the meaning of the federal bankruptcy law, 11 U.S.C. §§ 101 et seq.*

*Sec. 57. 1. If an individual voids an agreement pursuant to subsection 2 of section 47 of this act, the individual may recover in a civil action all money paid or deposited by or on behalf of the individual pursuant to the agreement, except amounts paid to creditors, in addition to the recovery under paragraph (c) and (d) of subsection 3.*

*2. If an individual voids an agreement pursuant to subsection 1 of section 47 of this act, the individual may recover in a civil action three times the total amount of the fees, charges, money and payments made by the individual to the provider, in addition to the recovery under paragraph (d) of subsection 3.*

*3. Subject to subsection 4, an individual with respect to whom a provider violates this chapter may recover in a civil action from the provider and any person that caused the violation:*

*(a) Compensatory damages for injury, including, without limitation, noneconomic injury, caused by the violation;*

*(b) Except as otherwise provided in subsection 4 and subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, with respect to a violation of section 39, 41 to 46, inclusive, or 49 of this act or subsection 1, 2 or 4 of section 50 of this act, the greater of the amount recoverable under paragraph (a) or \$5,000;*

*(c) Punitive damages; and*

*(d) Reasonable attorney's fees and costs.*

*4. In a class action, except for a violation of paragraph (e) of subsection 1 of section 50 of this act, the minimum damages provided in paragraph (b) of subsection 3 do not apply.*

*5. In addition to the remedy available under subsection 3, if a provider violates an individual's rights under section 42 of this act, the individual may recover in a civil action all money paid or deposited by or on behalf of the individual pursuant to the agreement, except for amounts paid to creditors.*

*6. A provider is not liable under this section for a violation of this chapter if the provider proves that the violation was not intentional and resulted from a good faith error notwithstanding the maintenance of procedures reasonably adapted to avoid the error. An error of legal judgment with respect to a provider's obligations under this chapter is not a good faith error. If, in connection with a violation, the provider has received more money than authorized by an agreement or this chapter, the defense provided by this subsection is not available unless the provider refunds the excess within 2 business days after learning of the violation.*

*7. The Commissioner shall assist an individual in enforcing a judgment against the surety bond or other security provided under section 35 or 36 of this act.*

Sec. 58. *If an act or practice of a provider violates both this chapter and chapter 598 of NRS, an individual may not recover under both for the same act or practice.*

Sec. 59. 1. *An action or proceeding brought pursuant to subsection 1, 2 or 3 of section 55 of this act must be commenced within 4 years after the conduct that is the basis of the Commissioner's complaint.*

2. *An action brought pursuant to section 57 of this act must be commenced within 2 years after the latest of:*

(a) *The individual's last transmission of money to a provider;*

(b) *The individual's last transmission of money to a creditor at the direction of the provider;*

(c) *The provider's last disbursement to a creditor of the individual;*

(d) *The provider's last accounting to the individual pursuant to subsection 1 of section 49 of this act;*

(e) *The date on which the individual discovered or reasonably should have discovered the facts giving rise to the individual's claim; or*

(f) *Termination of actions or proceedings by the Commissioner with respect to a violation of the chapter.*

3. *The period prescribed in paragraph (e) of subsection 2 is tolled during any period during which the provider or, if different, the defendant has materially and willfully misrepresented information required by this chapter to be disclosed to the individual, if the information so misrepresented is material to the establishment of the liability of the defendant under this chapter.*

Sec. 60. *In applying and construing the Uniform Debt-Management Services Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.*

Sec. 61. *This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).*

Sec. 62. NRS 598.741 is hereby amended to read as follows:

598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context otherwise requires:

1. "Buyer" means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

4. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.

5. "Organization":

(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

- (1) Improving a buyer's credit record, history or rating.
- (2) Obtaining an extension of credit for a buyer.
- (3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his indebtedness, unless that counseling or assistance is provided by and is within the scope of the authorized practice of a ~~debt adjuster licensed~~ *provider of debt-management services registered pursuant to ~~chapter 676 of NRS.~~ sections 2 to 61, inclusive, of this act.*
- (4) Providing advice or assistance to a buyer with regard to subparagraph (1) or (2).

(b) Does not include:

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank, credit union or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(5) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(6) A person ~~licensed~~ *registered* as a ~~debt adjuster~~ *provider of debt-management services* pursuant to ~~chapter 676 of NRS.~~ *sections 2 to 61, inclusive, of this act.*

(7) A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;



(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.

Sec. 63. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his duties as an attorney at law;

2. A ~~{person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;}~~ *provider of debt-management services registered pursuant to sections 2 to 61, inclusive, of this act while providing debt-management services pursuant to sections 2 to 61, inclusive, of this act;*

3. A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;

4. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;

5. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

6. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

7. A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, respectively, while acting under the authority of his license;

8. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

9. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 64. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

- (a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;
  - (b) Collection agency that is supervised pursuant to chapter 649 of NRS;
  - (c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;
  - (d) Trust company that is supervised pursuant to chapter 669 of NRS;
  - (e) Development corporation that is supervised pursuant to chapter 670 of NRS;
  - (f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;
  - (g) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;
  - (h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;
  - (i) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;
  - (j) ~~Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;~~
  - ~~(k)~~ Thrift company that is supervised pursuant to chapter 677 of NRS;
- and
- ~~(4)~~ (k) Credit union that is supervised pursuant to chapter 678 of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

- (a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or
- (b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 65. NRS 676.010, 676.015, 676.020, 676.030, 676.040, 676.050, 676.060, 676.070, 676.080, 676.100, 676.110, 676.120, 676.125, 676.130, 676.135, 676.140, 676.150, 676.160, 676.170, 676.180, 676.190, 676.200, 676.205, 676.207, 676.210, 676.220, 676.230, 676.235, 676.240, 676.250, 676.260, 676.270, 676.280, 676.290, 676.295, 676.300, 676.310, 676.320, 676.330, 676.335 and 676.340 are hereby repealed.

Sec. 66. Transactions entered into before July 1, 2010, and the rights, duties and interests resulting from them may be completed, terminated or enforced as required or permitted by a law amended, repealed or modified by this act as though the amendment, repeal or modification had not occurred.

Sec. 67. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2010, for all other purposes.

#### LEADLINES OF REPEALED SECTIONS

- 676.010 Definitions.
- 676.015 "Commissioner" defined.
- 676.020 "Contract" defined.
- 676.030 "Creditor" defined.
- 676.040 "Debt adjustment" defined.
- 676.050 "Debtor" defined.
- 676.060 "License" defined.
- 676.070 "Licensee" defined.
- 676.080 "Office" defined.
- 676.100 Applicability.
- 676.110 Engaging in business of debt adjusting without license or in violation of chapter prohibited.
- 676.120 Application; withdrawal of application.
- 676.125 Application for license: Additional requirements; fingerprints; grounds for refusal of license.
- 676.130 Submission of fees, bond and copy of contract with application; regulations; periodic determination of amount of bond.
- 676.135 Deposit as substitute for surety bond.
- 676.140 Investigation of applicants.
- 676.150 Issuance of license subsequent to findings by Commissioner.
- 676.160 Expiration, renewal and reinstatement of license; fees; regulations.
- 676.170 Disposition of fees and charges.
- 676.180 Display of license required.
- 676.190 Transfer of license prohibited.
- 676.200 Additional licenses for other offices.

676.205 Notification of change in ownership of stock; application for license after certain acquisitions; investigation; costs; waiver.

676.207 Use or change of business name; prohibitions.

676.210 Surrender.

676.220 Maintenance of separate trust accounts; maintenance and preservation of records.

676.230 Reports required.

676.235 Independent audit and examination: Payment of assessment; cooperation.

676.240 Contracts: Form; contents.

676.250 Fees.

676.260 Remittances to creditors; written statements of account and information on account to debtor.

676.270 Authorization of Commissioner to investigate business; free access required; compelling attendance of witnesses; fee.

676.280 Authority of Commissioner to require attendance of witnesses and production of documents.

676.290 Grounds for denial, suspension or revocation of license; administrative fine for violation.

676.295 Suspension or revocation of license: Additional grounds.

676.300 Temporary suspension of license: Conditions; notice; hearing; term of suspension.

676.310 Order denying or revoking license; contracts unaffected by disciplinary action or expiration of license.

676.320 Engaging in business without license.

676.330 Prohibited practices.

676.335 Administrative fines.

676.340 Violation of chapter.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Thank you, Mr. President. This amendment makes certain technical changes related to agreements between consumers and debt-management service providers. The amendment also requires disclosure of terms related to applicable debt settlement fees and explicitly allows the Commissioner of Consumer Affairs to adopt a reduced regulatory fee schedule for qualified nonprofit entities.

I am sure members of the Body received emails on this particular issue and we are working towards making sure that the non-profits have a voice in the process and that their fees will be lower than the for-profits.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 396.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 309.

"SUMMARY—Revises provisions governing an investigation of a peace officer by a law enforcement agency. (BDR 23-1098)"

"AN ACT relating to peace officers; ~~making certain provisions governing peace officers applicable to a peace officer who is a probationary employee of a law enforcement agency;~~ revising provisions governing the review by a peace officer of administrative or investigative files maintained by a law enforcement agency; revising provisions governing investigations of or hearings concerning peace officers that are conducted by a law enforcement agency; ~~providing for the civil liability of a law enforcement agency for a violation of certain provisions governing peace officers;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a law enforcement agency that investigates an allegation of misconduct by a peace officer or takes any punitive action against the peace officer must comply with certain requirements for providing notice and a hearing, using polygraphic examinations, maintaining confidentiality and taking other actions relating to the rights of the peace officer. (NRS 289.010-289.120) ~~Section 1 of this bill expands the definition of "peace officer" to include a peace officer who is a probationary employee of a law enforcement agency. Section 1 also expands the definition of "punitive action" to include the termination of employment of a probationary peace officer by a law enforcement agency. (NRS 289.010)~~

Section 2 of this bill authorizes a peace officer who is the subject of an investigation by a law enforcement agency to review *and copy* any administrative or investigative file maintained by the law enforcement agency concerning the investigation if, after the conclusion of the investigation, the charges against the peace officer are sustained and the law enforcement agency imposes or considers the imposition of punitive action against the peace officer. (NRS 289.057)

Section 3 of this bill requires a law enforcement agency that intends to conduct an interrogation or to hold a hearing concerning an investigation of a peace officer to provide a written notice of that fact to both the peace officer who is the subject of the investigation and to any peace officer believed by the law enforcement agency to have knowledge of any fact concerning the complaint or allegation made against the peace officer who is the subject of the investigation. Section 3 also requires the law enforcement agency to allow the peace officer to review certain compiled evidence prepared by the peace officer before conducting the interrogation or hearing and prohibits the law enforcement agency from taking various other actions concerning the peace officer. (NRS 289.060) ~~Section 4 of this bill provides that a law enforcement agency which violates certain provisions governing the rights of peace officers is civilly liable to the peace officer for damages in the amount of \$25,000 for each violation, in addition to any actual damages and reasonable attorney's fees and costs incurred by the peace officer because of the violation. Section 4 also requires the arbitrator or court which makes the~~

~~determination that the law enforcement agency committed the violation to make certain specific findings concerning the violation. (NRS 289.095) Sections 5 and 6 of this bill ensure that the limitation set forth in existing law concerning the amount of damages that may be awarded against an officer or employee of the State or a political subdivision of the State does not apply to an award of damages made pursuant to section 4.] Finally, section 3 provides that, if a peace officer provides a statement or answers a question relating to the alleged misconduct of the peace officer who is the subject of an investigation after he is informed that failure to provide the statement or answer may result in punitive action against him, the peace officer's answer or statement cannot be used against him in any criminal investigation of him.~~

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

Section 1. ~~NRS 289.010 is hereby amended to read as follows:~~

~~289.010 As used in this chapter, unless the context otherwise requires:~~

~~1. "Administrative file" means any file of a peace officer containing information, comments or documents about the peace officer. The term does not include any file relating to an investigation conducted pursuant to NRS 289.057 or a criminal investigation of a peace officer.~~

~~2. "Choke hold" means the holding of a person's neck in a manner specifically intended to restrict the flow of oxygen or blood to the person's lungs or brain. The term includes the arm bar restraint, carotid restraint and lateral vascular neck restraint.~~

~~3. "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive. The term includes a peace officer who is a probationary employee of a law enforcement agency.~~

~~4. "Punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer of a peace officer for purposes of punishment. The term includes a nonconfirmation of employment, dismissal or any other refusal of a law enforcement agency to continue the employment of a peace officer who is a probationary employee of the law enforcement agency.] (Deleted by amendment.)~~

Sec. 2. NRS 289.057 is hereby amended to read as follows:

289.057 1. An investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action.

2. A law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

3. After the conclusion of the investigation:

(a) If the ~~investigation causes a} charges brought against the peace officer are sustained and, based on those charges, the law enforcement agency {to impose} :~~

(1) *Imposes or considers the imposition of punitive action against the peace officer ~~[who was the subject of the investigation and the]~~; and*

(2) *The peace officer has received a notice of the imposition or proposed imposition of the punitive action, including a notice of the right of the peace officer to attend any hearing conducted before the imposition or proposed imposition of the punitive action,*

↳ *the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review and copy any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.*

(b) *If, pursuant to a policy of a law enforcement agency or a labor agreement, the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace officer maintained by the law enforcement agency, the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed from the administrative file.*

Sec. 3. NRS 289.060 is hereby amended to read as follows:

289.060 1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 48 hours before any interrogation or hearing is held relating to an investigation conducted pursuant to NRS 289.057, provide a written notice to the peace officer ~~[—A]~~ *who is the subject of the investigation and to any peace officer believed by the law enforcement agency to have knowledge of any fact relating to the complaint or allegation against the peace officer who is the subject of the investigation. Each of those peace officers may waive the notice required pursuant to this section.*

2. The notice must include:

- (a) A description of the nature of the investigation;
- (b) A summary of *the* alleged misconduct of the peace officer ~~[+]~~ *who is the subject of the investigation;*
- (c) The date, time and place of the interrogation or hearing;
- (d) The name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation;
- (e) The name of any other person who will be present at any interrogation or hearing; and
- (f) A statement setting forth the provisions of subsection 1 of NRS 289.080.

3. The law enforcement agency shall:

- (a) Interrogate the peace officer during his regular working hours, if reasonably practicable, or compensate him for that time based on his regular wages if no charges *against the peace officer* arise from the interrogation.
- (b) Immediately before the interrogation or hearing begins, inform the peace officer orally on the record that:

(1) He is required to provide a statement and answer questions related to ~~his~~ the alleged misconduct ~~[- and]~~ of the peace officer who is the subject of the investigation;

(2) If he fails to provide such a statement or to answer any such questions, the agency may charge him with insubordination ~~[-]~~; and

(3) He is entitled to review any evidence pursuant to subsection 4.

(c) Limit the scope of the questions during the interrogation or hearing to the alleged misconduct of the peace officer ~~[-]~~ who is the subject of the investigation.

(d) Allow the peace officer to explain an answer or refute a negative implication which results from questioning during an interrogation or hearing.

4. If the law enforcement agency has any audio, video or written evidence prepared by the peace officer, and the evidence is compiled during the investigation, the law enforcement agency shall allow the peace officer a reasonable period to review the evidence off the record before the interrogation or hearing begins.

5. If a law enforcement agency has any knowledge of or a belief that a peace officer may be subject to punitive action, the law enforcement agency shall not, without complying with the provisions of NRS 289.010 to 289.120, inclusive, order or otherwise require the peace officer to provide a written statement or memorandum concerning any involvement or activities of the peace officer in the alleged misconduct of the peace officer who is the subject of the investigation.

6. If a peace officer provides a statement or answers a question relating to the alleged misconduct of the peace officer who is the subject of the investigation pursuant to this section after ~~he is charged or threatened to be charged with insubordination for~~ the peace officer is informed that failing to provide the statement or answer ~~[-]~~ may result in punitive action against him, the statement or answer must not be used against the peace officer who provided the statement or answer in any criminal investigation of ~~the~~ that peace officer.

Sec. 4. ~~NRS 289.085 is hereby amended to read as follows:~~

~~289.085 1. If an arbitrator or court determines that evidence was obtained during an investigation of a peace officer concerning conduct that could result in punitive action in a manner which violates any provision of NRS 289.010 to 289.120, inclusive, and that such evidence may be prejudicial to the peace officer, such evidence is inadmissible and the arbitrator or court shall exclude such evidence during any administrative proceeding commenced or civil action filed against the peace officer.~~

~~2. If an arbitrator or court determines that a law enforcement agency intentionally violated a provision of NRS 289.010 to 289.120, inclusive, during an investigation of a peace officer, the law enforcement agency is civilly liable to the peace officer for damages in the amount of \$25,000 for each violation, in addition to the amount of any actual damages and~~



~~reasonable attorney's fees and costs incurred by the peace officer because of the violation. The arbitrator or court shall include in its determination a specific finding:~~

~~(a) That the law enforcement agency engaged in misconduct;~~

~~(b) Setting forth each violation committed by the law enforcement agency; and~~

~~(c) Setting forth the amount of any damages awarded pursuant to this section.~~

~~3. If an arbitrator awards a peace officer any damages or reasonable attorney's fees and costs pursuant to this section, the peace officer may confirm the award pursuant to NRS 38.239. (Deleted by amendment.)~~

Sec. 5. [NRS 41.035 is hereby amended to read as follows:

~~41.035 1. [An] Except as otherwise provided in NRS 289.085, an award for damages in an action sounding in tort brought under NRS 41.031 or against a present or former officer or employee of the State or any political subdivision, immune contractor or State Legislator arising out of an act or omission within the scope of his public duties or employment may not exceed the sum of \$75,000, exclusive of interest computed from the date of judgment, to or for the benefit of any claimant. An award may not include any amount as exemplary or punitive damages.~~

~~2. The limitations of subsection 1 upon the amount and nature of damages which may be awarded apply also to any action sounding in tort and arising from any recreational activity or recreational use of land or water which is brought against:~~

~~(a) Any public or quasi municipal corporation organized under the laws of this State;~~

~~(b) Any person with respect to any land or water leased or otherwise made available by that person to any public agency;~~

~~(c) Any Indian tribe, band or community whether or not a fee is charged for such activity or use. The provisions of this paragraph do not impair or modify any immunity from liability or action existing on February 26, 1968, or arising after February 26, 1968, in favor of any Indian tribe, band or community.~~

~~\* The Legislature declares that the purpose of this subsection is to effectuate the public policy of the State of Nevada by encouraging the recreational use of land, lakes, reservoirs and other water owned or controlled by any public or quasi municipal agency or corporation of this State, wherever such land or water may be situated. (Deleted by amendment.)~~

Sec. 6. [NRS 41.035 is hereby amended to read as follows:

~~41.035 1. [An] Except as otherwise provided in NRS 289.085, an award for damages in an action sounding in tort brought under NRS 41.031 or against a present or former officer or employee of the State or any political subdivision, immune contractor or State Legislator arising out of an act or omission within the scope of his public duties or employment may not exceed the sum of \$100,000, exclusive of interest computed from the date of~~

judgment, to or for the benefit of any claimant. An award may not include any amount as exemplary or punitive damages.

~~2. The limitations of subsection 1 upon the amount and nature of damages which may be awarded apply also to any action sounding in tort and arising from any recreational activity or recreational use of land or water which is brought against:~~

~~(a) Any public or quasi-municipal corporation organized under the laws of this State.~~

~~(b) Any person with respect to any land or water leased or otherwise made available by that person to any public agency.~~

~~(c) Any Indian tribe, band or community whether or not a fee is charged for such activity or use. The provisions of this paragraph do not impair or modify any immunity from liability or action existing on February 26, 1968, or arising after February 26, 1968, in favor of any Indian tribe, band or community.~~

~~→ The Legislature declares that the purpose of this subsection is to effectuate the public policy of the State of Nevada by encouraging the recreational use of land, lakes, reservoirs and other water owned or controlled by any public or quasi-municipal agency or corporation of this State, wherever such land or water may be situated. (Deleted by amendment.)~~

~~Sec. 7. [1.] This [section and sections 1 to 5, inclusive, of this act become] act becomes effective on [October] July 1, 2009.~~

~~[2. Section 5 of this act expires by limitation on September 30, 2011.~~

~~3. Section 6 of this act becomes effective on October 1, 2011.]~~

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

This amendment deletes changes to the definition of peace officer and punitive action that would have included probationary employees. It removes the section of the bill that held law enforcement agencies liable for damages and required an arbitrator or court to make specific findings. It adds provisions concerning written statements by the peace officer as it pertained to an investigation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Hardy, the privilege of the floor of the Senate Chamber for this day was extended to Representative Dean Heller.

On request of Senator Lee, the privilege of the floor of the Senate Chamber for this day was extended to Marilyn Lee, Blake Lee and Ikumi Lee.

Senator Horsford moved that the Senate adjourn until Monday, April 20, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 1:08 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

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