

**THE SIXTY-EIGHTH DAY**

---

CARSON CITY (Friday), April 15, 2011

Senate called to order at 10:43 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Peggy Locke.

Mathew 21:8-9 (New King James)

And a very great multitude spread their clothes on the road; others cut down branches from the trees and spread them on the road. Then the multitudes who went before and those who followed cried out saying: "Hosanna to the Son of David!" Blessed is He who comes in the Name of the Lord! Hosanna in the highest!"

O most high God, we give You praise as we commit this day into Your hands. We ask for guidance and direction, for wisdom and for discernment. May all that is accomplished in these days be according to Your will and purposes.

We pray for our troops in harms way – protect and give them great success. May they look to You for faith and courage. We also ask for Your comfort and strength for all those touched by the recent loss of our two beloved Carson High Students, Stephen and Keegen.

O Lord give us help from trouble, for the help of man is useless. But through God we will do valiantly, it is He who shall tread down our enemies. You are the resurrection and the life! And it is in Your most holy and precious Name we pray.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Commerce, Labor and Energy, to which was re-referred Senate Bill No. 336, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and re-refer to the Committee on Finance.

MICHAEL A. SCHNEIDER, *Chair*

*Mr. President:*

Your Committee on Health and Human Services, to which was referred Senate Bill No. 209, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which were referred Senate Bills Nos. 370, 371, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

ALLISON COPENING, *Chair*

*Mr. President:*

Your Committee on Judiciary, to which was referred Senate Bill No. 187, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 304, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and re-refer to the Committee on Finance.

DAVID R. PARKS, *Chair*

*Mr. President:*

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 446, 468, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

MARK A. MANENDO, *Chair*

*Mr. President:*

Your Committee on Revenue, to which was referred Senate Bill No. 432, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Revenue, to which were referred Senate Bills Nos. 46, 255, 374, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and re-refer to the Committee on Finance.

SHEILA LESLIE, *Chair*

WAIVERS AND EXEMPTIONS  
WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senate Committee on Judiciary

For: Senate Bill No. 185.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, April 15, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Senate Committee on Finance

For: Senate Bill No. 316.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, April 15, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Senate Committee on Revenue

For: Senate Bill No. 491.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Senate Committee on Revenue  
For: Senate Bill No. 492.

To Waive:

- Subsection 1 of Joint Standing Rule No. 14.3.
- Subsection 2 of Joint Standing Rule No. 14.3.
- Subsection 3 of Joint Standing Rule No. 14.3.
- Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Senate Committee on Revenue  
For: Senate Joint Resolution No. 15.

To Waive:

- Subsection 1 of Joint Standing Rule No. 14.3.
- Subsection 2 of Joint Standing Rule No. 14.3.
- Subsection 3 of Joint Standing Rule No. 14.3.
- Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Assemblywoman Pierce  
For: Assembly Bill No. 336.

To Waive:

- Subsection 1 of Joint Standing Rule No. 14.3.
- Subsection 2 of Joint Standing Rule No. 14.3.
- Subsection 3 of Joint Standing Rule No. 14.3.
- Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Assemblywoman Pierce  
For: Assembly Bill No. 428.

To Waive:

- Subsection 1 of Joint Standing Rule No. 14.3.
- Subsection 2 of Joint Standing Rule No. 14.3.
- Subsection 3 of Joint Standing Rule No. 14.3.
- Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Assemblyman Brooks  
For: Assembly Bill No. 446.

To Waive:

- Subsection 1 of Joint Standing Rule No. 14.3.
- Subsection 2 of Joint Standing Rule No. 14.3.
- Subsection 3 of Joint Standing Rule No. 14.3.
- Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

A Waiver requested by Senate Committee on Commerce, Labor and Energy

For: 58-1280

To Waive:

Subsection 2 of Joint Standing Rule No. 14.

Subsection 1 of Joint Standing Rule No. 14.2.

Subsection 1 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD  
*Senate Majority Leader*

JOHN OCEGUERA  
*Speaker of the Assembly*

NOTICE OF EXEMPTION

April 15, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 60.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 362, 369, 370, 371, 374, 379, 380, 383, 386, 387, 389, 392, 404, 407, 415, 416, 418, 420, 490, 491, 492, 493, 494.

MARK KRMPOTIC  
*Fiscal Analysis Division*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Parks moved that Senate Bill No. 8 be re-referred to the Committee on Finance.

Motion carried.

Senator Leslie moved that Senate Bills Nos. 46, 255 be re-referred to the Committee on Finance.

Motion carried.

Senator Schneider moved that Senate Bill No. 336 be re-referred to the Committee on Finance.

Motion carried.

Senator Copening moved that Senate Bills Nos. 370, 371 be re-referred to the Committee on Finance.

Motion carried.

Senator Leslie moved that Senate Bill No. 374 be re-referred to the Committee on Finance.

Motion carried.

Senator Manendo moved that Senate Bills Nos. 446, 468 be re-referred to the Committee on Finance.

Motion carried.

Senator Horsford moved that Senate Bill No. 271 be taken from the Second Reading File and re-referred to the Committee on Finance.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 10, 24, 112, 127, 152, 159, 180, 196, 198, 213, 284, 368; Assembly Bills Nos. 30, 144, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

## SECOND READING AND AMENDMENT

Senate Bill No. 26.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 7.

"SUMMARY—Revises various provisions relating to judicial administration. (BDR 14-323)"

"AN ACT relating to judicial administration; revising provisions governing the appointment of an attorney in ~~terminal and~~ juvenile court proceedings; revising provisions governing the collection of delinquent fines, administrative assessments, fees, restitution and other payments imposed in criminal and juvenile court proceedings; **revising provisions concerning the approval or rejection of the recommendations of a master of the juvenile court**; authorizing a juvenile court to establish a restitution contribution fund; authorizing the waiver of all or part of any ~~fine or~~ community service imposed by the juvenile court in exchange for a monetary contribution to a restitution contribution fund; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law requires a ~~court to appoint the public defender to represent a criminal defendant if: (1) the defendant has requested the appointment of an attorney to represent him or her, and (2) the court finds that the defendant is without means of employing an attorney and that representation of the defendant is required. (NRS 171.188)~~ In addition, existing law requires a juvenile court to appoint an attorney to represent a child who is alleged to be delinquent or in need of supervision under certain circumstances. If the parent or guardian of a child for whom the juvenile court has appointed an attorney is not indigent, the parent or guardian is required to pay the reasonable fees and expenses of the attorney. If the parent or guardian of the child is indigent, the juvenile court may order the parent or guardian to reimburse the county or State in accordance with the parent or guardian's ability to pay. (NRS 62D.030)

~~Section 1 of this bill provides standards for determining whether a criminal defendant is entitled to have a public defender appointed to represent him or her. Under section 1, the court is required to appoint the public defender to represent a criminal defendant if the defendant: (1) receives public assistance, resides in public housing, has an income that is less than 200 percent of the federally designated poverty standard, is incarcerated or is housed in a public or private mental health facility; or (2) is financially unable, without substantial hardship to the defendant or his or her dependents, to obtain qualified and competent legal counsel.~~ Section 7 of this bill provides ~~similar~~ standards for determining whether the parent or guardian of a child for whom the juvenile court has appointed an attorney is required to pay for such legal representation or reimburse the county or State for such legal representation. **Under section 7, the juvenile court is**

**required to find that the parent or guardian of a child is indigent if the parent or guardian: (1) receives public assistance, resides in public housing, has an income that is less than 200 percent of the federally designated poverty standard, is incarcerated or is housed in a public or private mental health facility; or (2) is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.**

Existing law authorizes a court to impose a collection fee for certain delinquent fines, administrative assessments, fees and restitution and authorizes the court to take certain actions to collect such delinquent payments. (NRS 176.064) **Section 2** of this bill authorizes the court to enter a civil judgment for the amount of any unpaid fines, administrative assessments, fees and restitution imposed against a criminal defendant. Under **section 2**, the civil judgment may be enforced and renewed in the same manner as a judgment for money rendered in a civil action, and a person who is not indigent and who has not satisfied the civil judgment within a certain period may be punished for contempt. **Section 5** of this bill authorizes a juvenile court to impose the same collection fees for delinquent fines, administrative assessments, fees, restitution and certain other payments as a court may impose against a criminal defendant. **Section 5** authorizes a juvenile court to enter a civil judgment against a ~~person who is not a minor~~ **child or the parent or guardian of the child** for any delinquent fines, administrative assessments, fees, restitution or other payments required in a juvenile court proceeding and authorizes certain collection activities if the juvenile court has entered such a civil judgment. Moreover, if the juvenile court has entered a civil judgment against a person who is not indigent and the ~~person has not satisfied the judgment within a certain period,~~ **juvenile court determines that the person has failed to make reasonable efforts to satisfy the civil judgment,** **section 5** authorizes the juvenile court to punish the person for contempt. **Section 5** also authorizes the court to which the juvenile court has transferred **or certified** a case to include satisfaction of a civil judgment entered by the juvenile court in any sentence imposed by that court.

**Section 5.5 of this bill revises the procedure by which a judge of the juvenile court approves or rejects the recommendations of a master of the juvenile court or directs a hearing de novo before the juvenile court.**

**Section 9** of this bill authorizes a juvenile court to establish a restitution contribution fund. Under **section 9**, all expenditures from the restitution contribution fund: (1) must be authorized by the juvenile court; and (2) must provide restitution to victims of unlawful acts committed by children or, if the source of the money is a grant, gift, donation, bequest or devise, must be made in accordance with the terms of the grant, gift, donation, bequest or devise. **Section 10** of this bill authorizes the juvenile court to waive all or part of any ~~fine or~~ community service imposed **against a child** by the juvenile court in exchange for a monetary contribution to the restitution

contribution fund and requires the juvenile court to set forth in an administrative order that is available for public inspection a formula for determining the amount of a contribution to the fund and the manner in which the contribution must be made. **Section 6** of this bill authorizes an agreement for the informal supervision of a child to require the child to make a monetary contribution to a restitution contribution fund.

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

**Section 1.** ~~NRS 171.188 is hereby amended to read as follows:~~

~~171.188 1. Any defendant charged with a public offense who is an indigent may, by oral statement to the district judge, justice of the peace, municipal judge or master, request the appointment of an attorney to represent the defendant.~~

~~2. The request must be accompanied by the defendant's affidavit, which must state:~~

~~(a) That the defendant is without means of employing an attorney; and~~

~~(b) Facts with some particularity, definiteness and certainty concerning the defendant's financial disability.~~

~~3. The district judge, justice of the peace, municipal judge or master shall forthwith consider the application and shall make such further inquiry as he or she considers necessary. If the district judge, justice of the peace, municipal judge or master:~~

~~(a) Finds that the defendant is without means of employing an attorney [;] according to the criteria set forth in subsection 1; and~~

~~(b) Otherwise determines that representation is required, the judge, justice or master shall designate the public defender of the county or the State Public Defender, as appropriate, to represent the defendant. If the appropriate public defender is unable to represent the defendant, or other good cause appears, another attorney must be appointed.~~

~~4. For the purposes of paragraph (a) of subsection 3, a district judge, justice of the peace, municipal judge or master shall find that a defendant is without means of employing an attorney if:~~

~~(a) The defendant:~~

~~(1) Receives public assistance, as that term is defined in NRS 122A.065;~~

~~(2) Resides in public housing, as that term is defined in NRS 315.021;~~

~~(3) Has a household income that is less than 200 percent of the federally designated level signifying poverty;~~

~~(4) Is incarcerated pursuant to a sentence imposed upon conviction of a crime; or~~

~~(5) Is housed in a public or private mental health facility; or~~

~~(b) After considering the particular circumstances of the defendant, including, without limitation, the seriousness of the charges against the defendant, the monthly expenses of the defendant and the rates for attorneys in the area in which the court is located, the judge, justice or master determines that the defendant is financially unable, without substantial~~

~~hardship to the defendant or his or her dependents, to obtain qualified and competent legal counsel.~~

~~5. The county or State Public Defender must be reimbursed by the city for costs incurred in appearing in municipal court. The county shall reimburse the State Public Defender for costs incurred in appearing in Justice Court. If a private attorney is appointed as provided in this section, the private attorney must be reimbursed by the county for appearance in Justice Court or the city for appearance in municipal court in an amount not to exceed \$75 per case. (Deleted by amendment.)~~

**Sec. 2.** NRS 176.064 is hereby amended to read as follows:

176.064 1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

- (a) Not more than \$100, if the amount of the delinquency is less than \$2,000.
- (b) Not more than \$500, if the amount of the delinquency is \$2,000 or greater, but is less than \$5,000.
- (c) Ten percent of the amount of the delinquency, if the amount of the delinquency is \$5,000 or greater.

2. A state or local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:

- (a) Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.
- (b) Request that the court take appropriate action pursuant to subsection 3.
- (c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

3. The court may, on its own motion or at the request of a state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, in the following order of priority if practicable:

- (a) *Enter a civil judgment for the amount due in favor of the state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution. A civil judgment entered pursuant to this paragraph may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money*



*rendered in a civil action. If the court has entered a civil judgment pursuant to this paragraph and the person against whom the judgment is entered is not indigent and has not satisfied the judgment within the time established by the court, the person may be punished for contempt.*

(b) Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount *of the civil judgment entered pursuant to paragraph (a)* and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.

~~[(b)]~~ (c) Order the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

~~[(c)]~~ (d) For a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

4. Money collected from a collection fee imposed pursuant to subsection 1 must be distributed in the following manner:

(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury. The city may use the money in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a justice court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(c) Except as otherwise provided in paragraph (d), if the money is collected by a state entity, the money must be deposited in an account, which

is hereby created in the State Treasury. The Court Administrator may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State.

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

**Sec. 3.** NRS 176.065 is hereby amended to read as follows:

176.065 1. Except as otherwise provided in subsection 2, when a person is sentenced to both fine and imprisonment, or to pay a forfeiture in addition to imprisonment, the court may, pursuant to NRS 176.064, *or section 5 of this act*, order that the person be confined in the state prison, the city or county jail or a detention facility, whichever is designated in the person's sentence of imprisonment, for an additional period of 1 day for each \$75 of the amount until the administrative assessment and the fine or forfeiture are satisfied or the maximum term of imprisonment prescribed by law for the offense committed has elapsed, whichever is earlier, but the person's eligibility for parole is governed only by the person's sentence of imprisonment.

2. The provisions of this section do not apply to indigent persons.

**Sec. 4.** NRS 176.075 is hereby amended to read as follows:

176.075 1. Except as otherwise provided in subsection 2, when a person is sentenced to pay a fine or forfeiture without an accompanying sentence of imprisonment, the court may, pursuant to NRS 176.064, *or section 5 of this act*, order that the person be confined in the city or county jail or detention facility for a period of not more than 1 day for each \$75 of the amount until the administrative assessment and the fine or forfeiture are satisfied.

2. The provisions of this section do not apply to indigent persons.

**Sec. 5.** Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *Except as otherwise provided in this subsection, if, pursuant to this title, a child or a parent or guardian of a child is ordered by the juvenile court ~~to pay a fine, administrative assessment, fee or restitution or to make any other payment and the fine, administrative assessment, fee, restitution or other payment or any part of it remains unpaid after the time established by the juvenile court for its payment, the juvenile court may enter a civil judgment against the child or the parent or guardian of the child for the amount due in favor of the victim, the state or local entity to whom the amount is owed. ~~The~~ or both. The juvenile court may not enter a civil judgment against a person who is a child unless the person has attained the age of 18 years ~~or~~, the person is a child who is determined to be outside the jurisdiction of the juvenile court pursuant to~~***

NRS 62B.330 or 62B.335, or the person is a child who is certified for proper criminal proceedings as an adult pursuant to NRS 62B.390.

2. Notwithstanding the termination of the jurisdiction of the juvenile court pursuant to NRS 62B.410 or the ~~completion of a~~ termination of any period of supervision or probation ~~imposed~~ ordered by the juvenile court, the juvenile court ~~which entered a civil judgment pursuant to subsection 1~~ retains jurisdiction over any civil judgment entered pursuant to subsection 1 and retains jurisdiction over the person against whom a civil judgment is entered pursuant to subsection 1. The juvenile court may supervise the civil judgment and take any of the actions authorized by ~~this section~~ the laws of this State.

3. A civil judgment entered pursuant to subsection 1 may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action.

4. If the juvenile court enters a civil judgment pursuant to subsection 1, the person or persons against whom the judgment is issued is liable for a collection fee, to be imposed by the juvenile court at the time ~~it issues~~ the civil judgment is issued, of:

(a) Not more than \$100, if the amount of the judgment is less than \$2,000.

(b) Not more than \$500, if the amount of the judgment is \$2,000 or greater, but is less than \$5,000.

(c) Ten percent of the amount of the judgment, if the amount of the judgment is \$5,000 or greater.

5. In addition to attempting to collect the judgment through any other lawful means, a victim, a representative of the victim or a state or local entity that is responsible for collecting a civil judgment entered pursuant to subsection 1 may take any or all of the following actions:

(a) Report the judgment to reporting agencies that assemble or evaluate information concerning credit.

(b) Request that the juvenile court take appropriate action pursuant to subsection 6.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the judgment and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 4, in accordance with the provisions of the contract.

6. ~~4. If the juvenile court ~~which has entered~~ determines that a child or the parent or guardian of a child against whom a civil judgment has been entered pursuant to subsection 1 has failed to make reasonable efforts to satisfy the civil judgment, the juvenile court may ~~on its own motion or at the request of the state or local entity that is responsible for collecting the judgment~~ take any ~~for all~~ of the following actions: ~~in the following order of priority if practicable.~~~~

~~(a) Request that the district attorney undertake collection of the judgment, including, without limitation, the original amount and the collection fee, by attachment or garnishment of the judgment debtor's property, wages or other money receivable.~~

~~(b) Order the suspension of the driver's license of a judgment debtor. If a judgment debtor does not possess a driver's license, the juvenile court may prohibit the judgment debtor from applying for a driver's license for a specified period.~~ child for a period not to exceed 1 year. If the judgment debtor child is already the subject of a court order suspending for delaying the issuance of the driver's license of the judgment debtor, child, the juvenile court may order the additional suspension for delay, as appropriate, to apply consecutively with the previous order. At the time the juvenile court issues an order suspending the driver's license of a judgment debtor child pursuant to this paragraph, the juvenile court shall require the judgment debtor child to surrender to the juvenile court all driver's licenses then held by the judgment debtor child. The juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. [At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a judgment debtor to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.] The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the judgment debtor's driving record, of a child, but such a suspension must not be considered for the purpose of rating or underwriting.

(b) If a child does not possess a driver's license, the juvenile court may prohibit the child from applying for a driver's license for a period not to exceed 1 year. If the child is already the subject of a court order delaying the issuance of a license to drive, the juvenile court may order any additional delay in the ability of the child to apply for a driver's license to apply consecutively with the previous order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a child to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.

(c) If the civil judgment was issued for a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

(d) Enter a finding of contempt against a child or the parent or guardian of a child and punish the child or the parent or guardian for contempt as provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.

7. Money collected from a collection fee imposed pursuant to subsection 4 must be deposited and used in the manner set forth in subsection 4 of NRS 176.064.

8. ~~Except as otherwise provided in this subsection, if the juvenile court has entered a civil judgment pursuant to subsection 1 and the person against whom the judgment is entered has not satisfied the judgment within the time established by the juvenile court, the person may be punished for contempt as provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.~~

~~9. If the juvenile court:~~

(a) Enters a civil judgment pursuant to subsection 1; and

(b) ~~Pursuant to this title:~~

~~(1) Transfers [to another court the case under which the judgment was entered,] jurisdiction over the child pursuant to NRS 62B.330 or 62B.335~~

or  
~~[(2) Certifies] certifies the child [involved in that case] for proper criminal proceedings as an adult [pursuant to NRS 62B.390,~~

~~↪ the civil judgment must include all unpaid fines, administrative assessments, fees, restitution or other payments ordered by the juvenile court which are associated with any other adjudications of delinquency by the juvenile court and the court to which the case is transferred [may] or certified shall include satisfaction of [the judgment] any civil judgments against the child by the juvenile court in any sentence imposed on the child [whose case was transferred.]~~

**Sec. 5.5. NRS 62B.030 is hereby amended to read as follows:**

62B.030 1. The juvenile court may order a master of the juvenile court to:

(a) Swear witnesses.

(b) Take evidence.

(c) Make findings of fact and recommendations.

(d) Conduct all proceedings before the master of the juvenile court in the same manner as a district judge conducts proceedings in a district court.

2. Not later than 10 days after the evidence before a master of the juvenile court is closed, the master shall file with the juvenile court:

(a) All papers relating to the case;

(b) Written findings of fact; and

(c) Written recommendations.

3. A master of the juvenile court shall provide to the parent or guardian of the child, the attorney for the child, the district attorney, and any other person concerned, written notice of:

(a) The master's findings of fact;

(b) The master's recommendations;

(c) The right to object to the master's recommendations; and

(d) The right to request a hearing de novo before the juvenile court as provided in subsection ~~4.5.~~

4. After reviewing the recommendations of a master of the juvenile court and any objection to the master's recommendations, the judge of the juvenile court shall ~~it~~ **sign a written order to:**

(a) Approve the master's recommendations, in whole or in part, and order the recommended disposition; or

(b) Reject the master's recommendations, in whole or in part, and order such relief as may be appropriate. ~~it~~

~~(c) Direct a~~

**5. An order issued pursuant to subsection 4 must provide notice that:**

**(a) The approval or rejection of the master's recommendations will not become effective until the judge of the juvenile court signs a written order approving or rejecting the master's recommendations which must not be earlier than 6 days after the master provides notice of the master's recommendations pursuant to subsection 3; and**

**(b) A hearing de novo before the juvenile court may be ordered, and the master's recommendations will not be binding,** if, not later than 5 days after the master provides notice of the master's recommendations, a person who is entitled to such notice files with the juvenile court a request for a hearing de novo before the juvenile court.

~~§~~ **6.** A recommendation of a master of the juvenile court is not effective until expressly approved by the juvenile court as evidenced by the signature of a judge of the juvenile court.

**Sec. 6.** NRS 62C.210 is hereby amended to read as follows:

62C.210 1. An agreement for informal supervision may require the child to:

(a) Perform community service, ~~or~~ provide restitution to any victim of the acts for which the child was referred to the probation officer ~~it~~ **or make a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act;**

(b) Participate in a program of restitution through work that is established pursuant to NRS 62E.580 if the child:

(1) Is 14 years of age or older;

(2) Has never been found to be within the purview of this title for an unlawful act that involved the use or threatened use of force or violence against a victim and has never been found to have committed such an unlawful act in any other jurisdiction, unless the probation officer determines that the child would benefit from the program;

(3) Is required to provide restitution to a victim; and

(4) Voluntarily agrees to participate in the program of restitution through work; ~~it~~

(c) Complete a program of cognitive training and human development pursuant to NRS 62E.220 if:

(1) The child has never been found to be within the purview of this title;

and

(2) The unlawful act for which the child is found to be within the purview of this title did not involve the use or threatened use of force or violence against a victim; or

(d) Engage in any combination of the activities set forth in this subsection.

2. If the agreement for informal supervision requires the child to participate in a program of restitution through work or complete a program of cognitive training and human development, the agreement may also require any or all of the following, in the following order of priority if practicable:

(a) The child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay the costs associated with the participation of the child in the program, including, but not limited to:

(1) A reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property during those periods in which the child participates in the program or performs work; and

(2) In the case of a program of restitution through work, for industrial insurance, unless the industrial insurance is provided by the employer for which the child performs the work; or

(b) The child to work on projects or perform community service for a period that reflects the costs associated with the participation of the child in the program.

**Sec. 7.** NRS 62D.030 is hereby amended to read as follows:

62D.030 1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall advise the child and the parent or guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings.

2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment of an attorney to represent the child pursuant to the provisions in NRS 171.188.

3. Except as otherwise provided in this section, the juvenile court shall appoint an attorney for a child if the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child.

4. A child may waive the right to be represented by an attorney if:

(a) A petition is not filed and the child is placed under informal supervision pursuant to NRS 62C.200; or

(b) A petition is filed and the record of the juvenile court shows that the waiver of the right to be represented by an attorney is made knowingly, intelligently, voluntarily and in accordance with any applicable standards established by the juvenile court.

5. Except as otherwise provided in *subsection 6 and* NRS 424.085, if the juvenile court appoints an attorney to represent a child and:

(a) The parent or guardian of the child is not indigent, the parent or guardian shall pay the reasonable fees and expenses of the attorney.

(b) The parent or guardian of the child is indigent, the juvenile court may order the parent or guardian to reimburse the county or State in accordance with the ability of the parent or guardian to pay.

6. *For the purposes of paragraph (b) of subsection 5, the juvenile court shall find that the parent or guardian of the child is indigent if:*

*(a) The parent or guardian:*

*(1) Receives public assistance, as that term is defined in NRS 422A.065;*

*(2) Resides in public housing, as that term is defined in NRS 315.021;*

*(3) Has a household income that is less than 200 percent of the federally designated level signifying poverty;*

*(4) Is incarcerated pursuant to a sentence imposed upon conviction of a crime; or*

*(5) Is housed in a public or private mental health facility; or*

*(b) After considering the particular circumstances of the parent or guardian, including, without limitation, the seriousness of the charges against the child, the monthly expenses of the parent or guardian and the rates for attorneys in the area in which the juvenile court is located, the juvenile court determines that the parent or guardian is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.*

7. Each attorney, other than a public defender, who is appointed under the provisions of this section is entitled to the same compensation and expenses from the county as is provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with criminal offenses.

**Sec. 8.** Chapter 62E of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

**Sec. 9. 1.** *The juvenile court may establish, with the county treasurer as custodian, a special fund to be known as the restitution contribution fund.*

*2. The juvenile court may apply for and accept grants, gifts, donations, bequests or devises which the director of juvenile services shall deposit with the county treasurer for credit to the fund.*

*3. The fund must be a separate and continuing fund, and no money in the fund reverts to the general fund of the county at any time. The interest earned on the money in the fund, after deducting any applicable charges, must be credited to the fund.*

*4. The juvenile court shall:*

*(a) Expend money from the fund only to provide restitution to a victim of an unlawful act committed by a child; and*

*(b) If the source of the money is a grant, gift, donation, bequest or devise, expend the money, to the extent permitted by law, in accordance with the terms of the grant, gift, donation, bequest or devise.*

*5. The juvenile court must authorize any expenditure from the fund before it is made.*



**Sec. 10. 1. If a juvenile court has established a restitution contribution fund pursuant to section 9 of this act:**

**(a) In exchange for a monetary contribution to the restitution contribution fund, the juvenile court may, in its discretion, waive all or part of ~~f~~**

~~(1) A fine imposed against a child, the parent or guardian of a child, or both;~~

~~(2) Any any community service which the juvenile court has ordered a child ~~f~~, the parent or guardian of a child, or both, ~~f~~ to perform. ~~f~~; or~~

~~(3) Both;~~

~~(1) A fine imposed against a child, the parent or guardian of a child, or both; and~~

~~(2) Any community service which the juvenile court has ordered a child, the parent or guardian of a child, or both, to perform.~~

**(b) The juvenile court shall set forth in a written administrative order:**

**(1) A formula for determining the amount of the contribution to the restitution contribution fund pursuant to this section; and**

**(2) The manner in which the contribution must be made.**

**↪ The juvenile court shall make available for public inspection the written administrative order described in this paragraph.**

**2. The provisions of this section do not:**

**(a) Create a right on behalf of a child ~~for a parent or guardian of a child~~ to the waiver of all or part of any ~~fine imposed against, or any~~ community service to be performed by ~~f~~ the child ~~for the parent or guardian, or both,~~ in exchange for a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act; or**

**(b) Establish a basis for any cause of action against the State of Nevada or its officers or employees for denial of a waiver of all or part of any ~~fine to be imposed against, or any~~ community service to be performed by ~~f~~ a child ~~for a parent or guardian of a child, or both,~~ in exchange for a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act.**

**Sec. 11. NRS 62E.100 is hereby amended to read as follows:**

62E.100 Except as otherwise provided in NRS 62E.100 to 62E.300, inclusive:

1. The provisions of NRS 62E.100 to 62E.300, inclusive, **and sections 9 and 10 of this act** apply to the disposition of a case involving any child who is found to be within the purview of this title.

2. In addition to any other orders or actions authorized or required by the provisions of this title, if a child is found to be within the purview of this title:

(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.100 to 62E.300, inclusive, **and sections 9 and 10 of this act** that the juvenile court deems proper for the disposition of the case; and

(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.

**Sec. 12.** NRS 483.443 is hereby amended to read as follows:

483.443 1. The Department shall, upon receiving notification from a district attorney or other public agency collecting support for children pursuant to NRS 425.510 that a court has determined that a person:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to establish paternity or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,  
 ↪ send a written notice to that person that his or her driver's license is subject to suspension.

2. The notice must include:

(a) The reason for the suspension of the license;

(b) The information set forth in subsections ~~2~~ 5 and 6; and

(c) Any other information the Department deems necessary.

3. If a person who receives a notice pursuant to subsection 1 does not, within 30 days after receiving the notice, comply with the subpoena or warrant or satisfy the arrearage as required in NRS 425.510, the Department shall suspend the license without providing the person with an opportunity for a hearing.

4. The Department shall suspend immediately the license of a defendant if so ordered pursuant to NRS 176.064 ~~1~~ **or section 5 of this act.**

5. The Department shall reinstate the driver's license of a person whose license was suspended pursuant to this section if it receives:

(a) A notice from the district attorney or other public agency pursuant to NRS 425.510 that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to that section or from a district judge that a delinquency for which the suspension was ordered pursuant to NRS 176.064 **or section 5 of this act** has been discharged; and

(b) Payment of the fee for reinstatement of a suspended license prescribed in NRS 483.410.

6. The Department shall not require a person whose driver's license was suspended pursuant to this section to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of the reinstatement of the license.

**Sec. 13.** 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 or her 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 484B.653.

(2) A third or subsequent violation within 7 years of NRS 484C.110 or 484C.120.

(3) A violation of NRS 484C.110 or 484C.120 resulting in a felony conviction pursuant to NRS 484C.400 or 484C.410.

(4) A violation of NRS 484C.430 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 484C.110, 484C.130 or 484C.430.

➔ 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 484B.657, 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, 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 second violation within 7 years of NRS 484C.110 or 484C.120 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484B.550.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484C.110 or 484C.120.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484C.110 or 484C.120 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 first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person 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 484C.460 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his or her first such offense during the period of required use of the device.

(b) For 5 years, if it is his or her 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, *or section 5 of this act*, chapters 484A to 484E, inclusive, 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 484C.450.

**Sec. 14.** 1. This act becomes effective upon passage and approval.

2. Section 12 of this act expires by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,  
 ↪ are repealed by the Congress of the United States.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment deletes Section 1, which would have defined an indigency standard for criminal cases, and instead requires the juvenile court to make certain findings that a parent or guardian of a child is indigent. It changes Section 10 concerning the restitution contribution fund by removing the reference to waiving a fine and leaving only the reference to waiving community service. The amendment adds a new section that alters the procedure for a juvenile court judge to approve or reject the findings and recommendations of a master, and clarifies the applicability and procedures relating to the civil judgment that can be imposed by the juvenile court.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 40.

Bill read second time.

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

Amendment No. 55.

"SUMMARY—Requires ~~certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting~~ **the State Public Works Board to adopt** regulations concerning the construction, maintenance, operation ~~for~~ **and** safety of certain buildings ~~for~~ **and** structures. (BDR 28-436)"

"AN ACT relating to real property; requiring ~~certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting~~ **the State Public Works Board to adopt** regulations concerning the construction, maintenance, operation ~~for~~ **and** safety of certain buildings and structures; **requiring the deputy manager for compliance and code enforcement to make recommendations to the Board concerning such regulations;** and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

~~Existing law requires the State Public Works Board to appoint a deputy manager for compliance and code enforcement, who serves as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government. (NRS 341.100)~~ **Section 1 of this bill requires the State Public Works Board to adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government. Section 2 of this bill requires the deputy manager for compliance and code enforcement to make recommendations to the Board concerning these regulations.**

Existing law ~~also~~ authorizes or, in some cases, requires certain state agencies and officials to adopt regulations concerning the construction, maintenance, operation or safety of certain buildings or structures. (NRS 446.940, 449.250-449.430, 455C.110, 461.170, 472.040, 477.030) Specifically, these agencies and officials include the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden and the State Fire Marshal. ~~Sections 3-10 of this bill require these state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting regulations concerning the construction, maintenance, operation or safety of buildings or structures in the State. Section 1 of this bill requires the deputy manager to consult with such an agency or official and to provide recommendations regarding how the agency or official's regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.~~ **Sections 4-11 of this bill prohibit these state agencies and officials from adopting regulations which apply to the buildings and structures on property of this State or held in trust for any**

**division of State Government and which conflict with the regulations adopted by the State Public Works Board.**

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

**Section 1. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. Subject to the provisions of subsection 2, the Board shall adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government.**

**2. Before adopting any regulation pursuant to subsection 1, the Board shall consult with the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal, as applicable, if such state agency or official has authority to adopt similar regulations which apply to buildings and structures that are not on property of the State or held in trust for a division of the State Government.**

~~Section 1.~~ **Sec. 2.** NRS 341.100 is hereby amended to read as follows:

341.100 1. The Board shall appoint a Manager and a deputy manager for compliance and code enforcement, each of whom must be approved by the Governor. The Manager and the deputy manager for compliance and code enforcement serve at the pleasure of the Board and the Governor.

2. The Manager, with the approval of the Board, shall appoint:

(a) A deputy manager for professional services; and

(b) A deputy manager for administrative, fiscal and constructional services.

↪ Each deputy manager appointed pursuant to this subsection serves at the pleasure of the Manager.

3. The Manager may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

4. The Manager and each deputy manager are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the Manager and each deputy manager shall devote his or her entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

5. The Manager and the deputy manager for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.

6. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of the principles of

administration and a working knowledge of the principles of engineering or architecture as determined by the Board.

7. The deputy manager for compliance and code enforcement must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the Board.

8. The Manager shall:

- (a) Serve as the Secretary of the Board.
- (b) Manage the daily affairs of the Board.
- (c) Represent the Board before the Legislature.
- (d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.
- (e) Make recommendations to the Board for the selection of architects, engineers and contractors.
- (f) Make recommendations to the Board concerning the acceptance of completed projects.
- (g) Submit in writing to the Board, the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:
  - (1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;
  - (2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;
  - (3) Delays in the completion of the design or construction of the project or any substantial component of the project; or
  - (4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

9. The deputy manager for compliance and code enforcement shall ~~serve~~ :

(a) *Serve* as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government ~~}; and~~

(b) ~~Consult with an agency or official that is considering adoption of a regulation described in sections 3, 4 and 7 to 10, inclusive, of this act and provide~~ **Provide recommendations regarding how the regulation, as it applies to regulations that the Board adopts pursuant to section 1 of this act concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any**

~~division of the State Government . . . , may be made consistent with other regulations which apply to such buildings or structures.~~

~~Sec. 2.]~~ **Sec. 3.** NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

- (a) Any law requiring competitive bidding; or
- (b) Chapter 341 of NRS.

2. The person or entity that enters into the agreement for the actual construction, alteration, repair or remodeling of the improvement shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

3. The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

- (a) ~~[Subsection]~~ **Paragraph (b) of subsection 9** of NRS 341.100; and
- (b) NRS 341.105,

↪ apply to the construction, alteration, repair or remodeling of the improvement.

~~[Sec. 3.]~~ **Sec. 4.** Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Before]~~ **Notwithstanding any provision of law to the contrary, the State Board of Health may not adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~[.]~~ or structure ~~for other property in]~~ on property of this State ~~[, the Board shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~**

~~Sec. 4.]~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted pursuant to section 1 of this act.**

**Sec. 5.** Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Before]~~ **Notwithstanding any provision of law to the contrary, the State Department may not adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~[.]~~ or structure ~~for other property in]~~ on property of this State ~~[, the State Department shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~**



~~Sec. 5.~~ or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.

**Sec. 6.** NRS 449.250 is hereby amended to read as follows:

449.250 NRS 449.250 to 449.430, inclusive, **and section ~~##~~ 5 of this act** may be cited as the Nevada Health Facilities Assistance Act.

~~Sec. 6.~~ **Sec. 7.** NRS 449.260 is hereby amended to read as follows:

449.260 As used in NRS 449.250 to 449.430, inclusive ~~##~~ , **and section ~~##~~ 5 of this act:**

1. "Community mental health center" means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of patients with mental illness, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community in or near which the facility is situated.

2. "Construction" includes the construction of new buildings, modernization, expansion, remodeling and alteration of existing buildings, and initial equipment of such buildings, including medical transportation facilities, and includes architects' fees, but excludes the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of the land.

3. "Facility for persons with mental retardation" means a facility specially designed for the diagnosis, treatment, education, training or custodial care of persons with mental retardation, including facilities for training specialists and sheltered workshops for persons with mental retardation, but only if such workshops are part of facilities which provide or will provide comprehensive services for persons with mental retardation.

4. "Federal Act" means 42 U.S.C. 291 to 291o-1, inclusive, and 300k to 300t, inclusive, and any other federal law providing for or applicable to the provision of assistance for health facilities.

5. "Federal agency" means the federal department, agency or official designated by law, regulation or delegation of authority to administer the Federal Act.

6. "Health facility" includes a public health center, hospital, facility for hospice care, facility for persons with mental retardation, community mental health center, and other facility to provide diagnosis, treatment, care, rehabilitation, training or related services to persons with physical or mental impairments, including diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes, as those terms are defined in the Federal Act, and such other facilities for which federal aid may be authorized under the Federal Act, but, except for facilities for persons with mental retardation, does not include any facility furnishing primarily domiciliary care.

7. "Nonprofit health facility" means any health facility owned and operated by a corporation or association, no part of the net earnings of which

inures or may lawfully inure to the benefit of any private shareholder or natural person.

8. "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics and administrative offices operated in connection with public health centers.

9. "State Department" means the Department of Health and Human Services, acting through its appropriate divisions.

~~Sec. 7.~~ **Sec. 8.** Chapter 455C of NRS is hereby amended by adding thereto a new section to read as follows:

~~Before~~ **Notwithstanding any provision of law to the contrary, the Division may not adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~or~~ structure ~~for other property in~~ on property of this State ~~, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~**

~~Sec. 8.~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.**

**Sec. 9.** Chapter 461 of NRS is hereby amended by adding thereto a new section to read as follows:

~~Before~~ **Notwithstanding any provision of law to the contrary, the Division may not adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~or~~ structure ~~for other property in~~ on property of this State ~~, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~**

~~Sec. 9.~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.**

**Sec. 10.** Chapter 472 of NRS is hereby amended by adding thereto a new section to read as follows:

~~Before~~ **Notwithstanding any provision of law to the contrary, the State Forester Firewarden may not adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~or~~ structure ~~for other property in~~ on property of this State ~~, the State Forester Firewarden shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~**

~~Sec. 10.~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.**

**Sec. 11.** Chapter 477 of NRS is hereby amended by adding thereto a new section to read as follows:

~~Before~~ **Notwithstanding any provision of law to the contrary, the State Fire Marshal may not adopt any regulation concerning the construction,**

~~maintenance, operation or safety of a building ~~†~~ or structure for other property in] on property of this State ~~†~~ the State Fire Marshal shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~

~~Sec. 11.] or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~

**Sec. 12. Any regulations of the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal existing on the effective date of this act which concern the construction, maintenance, operation or safety of buildings or structures on property of this State or held in trust for any division of the State Government remain in effect until the State Public Works Board adopts the regulations required pursuant to section 1 of this act.**

**Sec. 13.** This act becomes effective upon passage and approval.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 55 to Senate Bill No. 40 amends the bill to require the State Public Works Board to adopt regulations concerning the construction, maintenance, operation, and safety of certain buildings and structures on property of this State. It requires the deputy manager for compliance and code enforcement to make recommendations to the Board concerning these regulations; and adds language prohibiting certain State agencies and officials from adopting regulations that apply to buildings and structures on State property which conflict with regulations adopted by the State Public Works Board.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 57.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 8.

"SUMMARY—Expands the circumstances pursuant to which a court is authorized to issue certain warrants. (BDR 11-289)"

"AN ACT relating to children; expanding the circumstances pursuant to which a court is authorized to issue a warrant to take physical custody of a child; ~~requiring an agency which provides child welfare services to place such a child in certain shelters;~~ and providing other matters properly relating thereto."

#### **Legislative Counsel's Digest:**

Existing law as set forth in the Uniform Child Custody Jurisdiction and Enforcement Act (chapter 125A of NRS) authorizes a court in a proceeding

to enforce a child custody determination to issue a warrant to take physical custody of a child in an emergency situation if the court finds that the child is immediately likely to suffer serious physical harm or to be removed from this State. Before issuing the warrant, the court is required to hold a hearing at which the party alleging the need for the warrant is present but not the party who has physical custody of the child. (NRS 125A.525) The Uniform Child Custody Jurisdiction and Enforcement Act also authorizes a court in this State, to enforce a child custody determination issued by a court in another state, to issue an order to take physical custody of a child in a nonemergency situation after holding a hearing at which both parties, the petitioner and the respondent, are given an opportunity to be heard. (NRS 125A.495)

Existing law as set forth in the Uniform Child Abduction Prevention Act (chapter 125D of NRS) authorizes a court, pursuant to a petition filed either before or after a child custody determination has been made, to issue a warrant to take physical custody of a child in an emergency situation if the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed. The court may issue the warrant without providing prior notice and an opportunity to be heard to the party who has physical custody of the child. (NRS 125D.200)

Existing law also authorizes the court in divorce or other dissolution of marriage proceedings to enter an order allowing a party, under certain circumstances and with the assistance of a law enforcement agency, to obtain physical custody of a child from the party having physical custody of the child if the court finds that it would be in the best interest of the child to do so. (NRS 125.470) **Section 1** of this bill deletes this provision regarding divorce and other dissolution of marriage proceedings, and **section 2** of this bill sets forth a new procedure.

**Section 2** expands the circumstances in which a court is authorized to issue a warrant to take physical custody of a child. Specifically, **section 2** authorizes a court, upon a petition submitted during a proceeding to establish custody of a child or to enforce or modify a child custody determination, to issue a warrant to take physical custody of the child where there is probable cause to believe that the child has been abducted. If the court determines that the child has been abducted and that an emergency situation exists, including, without limitation, a situation in which the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court is authorized to issue a warrant. Before issuing the warrant in an emergency situation, the court must hold a hearing at which the party alleging the need for the warrant is present but not the party alleged to have committed the act of abduction. If the court determines that the situation is not an emergency situation, before issuing the warrant, the court must hold a hearing at which both parties, the party alleging the need for the warrant and the party alleged to have committed the act of abduction, are given an opportunity to be heard. **Section 2** defines the term "abduction" to include kidnapping, aiding and abetting kidnapping and the willful detaining,

concealing or removing of a child from a person having lawful custody or a right of visitation of the child by a person who has a limited right of custody to the child by operation of law or pursuant to a court order, judgment or decree or who has no right of custody to the child.

**Section 2** differs from the similar provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and the Uniform Child Abduction Prevention Act in various ways, including, without limitation, with regard to the types of cases to which it applies. For example, **section 2** applies to: (1) a broader category of emergency situations; (2) emergency situations which occur before a child custody determination has been made and in which the child is in imminent danger of serious physical harm; (3) nonemergency situations for child custody determinations that are issued by courts in this State; and (4) children who are willfully detained or concealed from persons having lawful custody or a right of visitation of the child, in addition to children who are removed from such persons.

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

**Section 1.** NRS 125.470 is hereby amended to read as follows:

125.470 1. If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, it appears to the court that any minor child of either party has been, or is likely to be, taken or removed out of this State or concealed within this State, the court shall forthwith order such child to be produced before it and make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.

~~2. If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, the court finds that it would be in the best interest of the minor child, the court may enter an order providing that a party may, with the assistance of the appropriate law enforcement agency, obtain physical custody of the child from the party having physical custody of the child. The order must provide that if the party obtains physical custody of the child, the child must be produced before the court as soon as practicable to allow the court to make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.~~

~~3. If the court enters an order pursuant to subsection 2 providing that a party may obtain physical custody of a child, the court shall order that party to give the party having physical custody of the child notice at least 24 hours before the time at which he or she intends to obtain physical custody of the child, unless the court deems that requiring the notice would likely defeat the purpose of the order.~~

4-] All orders for a party to appear with a child issued pursuant to this section may be enforced by issuing a warrant of arrest against that party to secure his or her appearance with the child.

]-] 3. A proceeding under this section must be given priority on the court calendar.

Sec. 2. Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If, during any proceeding to establish custody of a child or enforce or modify a child custody determination, brought pursuant to this chapter or chapter 125 or 125A of NRS, it appears to the court upon a petition submitted by an aggrieved party or any other person having knowledge of the relevant facts that there is probable cause to believe that an act of abduction has been committed against the child and that the act of abduction was committed without just cause, the court may issue a warrant to take physical custody of the child. A copy of a petition submitted pursuant to this subsection must be served upon the Children's Advocate appointed pursuant to NRS 432.157 before any hearing is held by the court pursuant to this section.*

2. *The petition must include, without limitation:*

(a) *An affidavit or other sworn declaration, signed by the petitioner under penalty of perjury, attesting to the truth and accuracy of the petition;*

(b) *A copy of the most recent child custody determination, if any, of the child;*

(c) *The name of the person or persons having legal custody of the child;*

(d) *A statement of the facts and circumstances pertaining to the abduction of the child;*

(e) *A statement indicating whether the child, the person alleged to have committed the act of abduction or the petitioner has been:*

(1) *The subject of an investigation of alleged abuse or neglect of a child or domestic violence;*

(2) *A party to a proceeding concerning the alleged abuse or neglect of a child, an act of abduction of a child or domestic violence; or*

(3) *A party against whom an order for protection against domestic violence was issued; and*

(f) *A statement indicating whether any other court has exercised jurisdiction over the custody or welfare of the child.*

3. *The court may, in its discretion, supplement the allegations in the petition with the sworn testimony of the petitioner at a hearing before the court. Any such testimony must be recorded and preserved in the records of the court.*

4. *If the court determines that exigent circumstances exist in relation to the issuance of the warrant, including, without limitation, that the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court may issue the warrant described*

*in subsection 6 after an ex parte hearing. If the court issues the warrant after an ex parte hearing, the court:*

*(a) Shall afford the party alleged to have committed the act of abduction an opportunity to be heard at the earliest possible time after the warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. If a hearing on the next judicial day is impossible, the court shall hold the hearing on the first judicial day possible.*

*(b) Shall provide , or cause the petitioner to provide, notice of the hearing to be held pursuant to paragraph (a) to the party alleged to have committed the act of abduction and all other interested parties.*

*5. If the court determines that no exigent circumstances exist in relation to the issuance of the warrant, the court:*

*(a) Shall hold a hearing before it issues the warrant described in subsection 6;*

*(b) Shall provide , or cause the petitioner to provide, notice of the hearing to all interested parties;*

*(c) If the party alleged to have committed the act of abduction is present at the hearing, may order the party to return the child ~~to the petitioner or other person or agency specified by the court~~ in accordance with the placement of the child pursuant to subsection 7 and may issue the warrant described in subsection 6; and*

*(d) If the party alleged to have committed the act of abduction received notice but is not present at the hearing, may issue the warrant described in subsection 6.*

*6. A warrant issued by the court pursuant to this section:*

*(a) Must set forth findings of fact that establish probable cause for believing that an act of abduction occurred and that the act of abduction was without just cause;*

*(b) Must direct law enforcement officers to take physical custody of the child and deliver the child ~~to the person or agency determined by the court~~ in accordance with the placement of the child pursuant to subsection 7;*

*(c) Must specify the property that may be searched and the child that may be seized pursuant to the warrant;*

*(d) May authorize law enforcement officers to enter private property as described in paragraph (c) to take physical custody of the child; and*

*(e) Is enforceable throughout this State.*

*7. Based on the statements in the petition and the testimony provided at any hearing held by the court, the court shall ~~determine and set forth in the warrant whether it is in the best interests of the child to:~~*

*~~(a) Return the child to or place the child in the custody and care of the petitioner;~~*

*~~(b) Place the child in the custody and care of another person, as permitted by specific statute; or~~*

*~~(c) Deliver the child to an agency which provides child welfare services.~~*

~~8 The child must remain in the custody of the person or agency determined by the court pursuant to subsection 7 until further order of the court.] provide for the placement of the child pending final relief.~~

~~9.]~~ 8. As soon as reasonably practicable but not later than 24 hours after executing a warrant issued pursuant to this section, the law enforcement officer who or the law enforcement agency which executed the warrant shall inform the court of the execution of the warrant.

~~10.]~~ 9. After the hearing required by subsection 4 or 5 to afford all interested parties an opportunity to be heard, the court shall enter an order for temporary or permanent custody of the child.

~~11.]~~ 10. If the court finds, after a hearing, that a petitioner sought a warrant pursuant to this section for the purpose of harassment or in bad faith, the court may:

(a) Award the other party reasonable attorney's fees, costs and expenses; and

(b) Impose a civil penalty of not more than \$1,000 on the petitioner.

~~12.]~~ 11. The remedies available pursuant to this section are in addition to the remedies available pursuant to any other applicable provision of law, including, without limitation, NRS 125.470.

~~13.]~~ 12. As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359.

(b) "Abuse or neglect of a child" has the meaning ascribed to it in NRS 432B.020.

(c) ~~["Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

~~(d)]~~ "Child custody determination" means a judgment, decree or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order.

~~(e)]~~ (d) "Domestic violence" means the commission of any act described in NRS 33.018.

Sec. 3. ~~Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~A child delivered pursuant to section 2 of this act to an agency which provides child welfare services must be placed in a shelter, which may include, without limitation, a foster home or other home or facility which provides care for those children, except as otherwise provided in NRS 432B.3905. Such a child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.] **(Deleted by amendment.)**~~

Sec. 4. This act becomes effective on July 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.



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

The amendment ensures that the required petitions are served on the Children's Advocate in the Attorney General's Office, clarifies proper placement of the child pending final relief, and makes other technical revisions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 81.

Bill read second time.

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

Amendment No. 189.

"SUMMARY—Makes various changes relating to state financial administration. (BDR 31-396)"

"AN ACT relating to state financial administration; ~~requiring professional and occupational licensing agencies to deny the issuance or renewal of licenses possessed by certain persons who owe debts to the State; requiring the State Controller to develop and operate with financial institutions a data match system for the collection of certain debts owed to state agencies;~~ revising the statutes of limitation for the State Controller to take action regarding the collection of certain debts owed to state agencies; providing for the electronic payment of certain payments; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

~~‡ Existing law authorizes an agency of this State to refuse to conduct a transaction with a person who owes a debt to an agency until the debt is paid or the person enters into an agreement to pay the debt in installments. (NRS 353C.128) Section 2 of this bill: (1) requires the State Controller to establish a list to notify all professional and occupation licensing authorities in this State that a person who is applying for the issuance or renewal of a license, certification, registration, permit or other similar authorization which grants the person authority to engage in a profession or occupation has failed to pay a debt owed to the State; and (2) provides that a licensing authority shall not issue or renew such a license, certification, registration, permit or authorization to a person whose name is included on the list.~~

~~Section 3 of this bill requires the State Controller to develop and operate a system for matching data to collect outstanding debts. The State Controller and financial institutions located in this State may use the system developed for the collection of child support to fulfill the requirements of section 3. Financial institutions must provide to the State Controller information on persons who maintain accounts at the financial institution and are identified by the State Controller as owing an outstanding debt to the State. Financial institutions are then required to encumber assets held in the financial institution by the debtors to pay their debts.~~

Existing law sets forth statutes of limitation for when the State Controller may take certain action to collect debts owed to the State. (NRS 353C.140, 353C.170, 353C.180, 353C.210) Sections 4-7 of this bill amend ~~the~~ those statutes of limitation ~~for when the State Controller may take certain action to collect debts owed to the State.~~

Section 8 of this bill requires the State Controller to pay accounts payable electronically unless doing so would cause undue hardship to the payee.

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

~~Section 1. Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act. (Deleted by amendment.)~~

~~Sec. 2. 1. The State Controller shall:~~

~~(a) Establish and maintain a list of persons who owe a debt to an agency; and~~

~~(b) Make the list available to all licensing agencies.~~

~~2. A licensing agency shall not issue a license to any person or renew the license of any person unless and until the licensing agency confirms that the name of the person is not included on the list established by the State Controller pursuant to subsection 1.~~

~~3. The State Controller shall adopt such regulations as are necessary or advisable to carry out the provisions of this section.~~

~~4. As used in this section:~~

~~(a) "License" means any license, certification, registration, permit or other similar authorization that grants a person the authority to engage in a profession or occupation in this State.~~

~~(b) "Licensing agency" means any agency that issues or renews any license. (Deleted by amendment.)~~

~~Sec. 3. 1. The State Controller shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible. If a financial institution has developed and operated a system for matching data pursuant to NRS 425.160, and such a system is approved by the State Controller, the system satisfies the requirements of this section.~~

~~2. In addition to any other remedy provided for in this chapter, the State Controller may use the system for matching data developed and operated pursuant to subsection 1 to collect a debt, plus any applicable penalties and interest.~~

~~3. A financial institution in this State shall:~~

~~(a) Cooperate with the State Controller in carrying out the provisions of subsection 1.~~

~~(b) Use the system to provide to the State Controller for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification of each person who maintains an~~

~~account at the financial institution, as identified by the State Controller by name and social security number or other number assigned for taxpayer identification.~~

~~(c) In response to the receipt from the State Controller of notification of debt that a person owes the State, encumber all assets of the person held by the financial institution on behalf of the State Controller and surrender those assets to the State Controller. A financial institution is not required to encumber or surrender any assets received by the financial institution on behalf of the person after the financial institution received the notice of the debt from the State Controller.~~

~~4. A financial institution may not be held liable in any civil or criminal action for:~~

~~(a) Any disclosure of information to the State Controller pursuant to this section.~~

~~(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.~~

~~(c) Any other action taken in good faith to comply with the requirements of this section.~~

~~5. If a court issues an order to return to a person any assets surrendered by a financial institution pursuant to subsection 3, the State Controller is not liable to the person for any of those assets that have been provided to the State Controller in accordance with the order for the payment of a debt.~~

~~6. All information provided to the State Controller by a financial institution pursuant to this section is confidential and may only be used by the State Controller for use in the collection of a debt owed to the State.~~

~~7. As used in this section, "financial institution" has the meaning ascribed to it in NRS 229A.030.~~ **(Deleted by amendment.)**

**Sec. 4.** NRS 353C.140 is hereby amended to read as follows:

353C.140 If a person has not paid a debt that the person owes to an agency, the Attorney General, upon the request of the State Controller:

1. Except as otherwise provided in this section, shall bring an action in a court of competent jurisdiction; or

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction,

↪ on behalf of this state to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4 ~~4 1/2~~ years after the date on which the debt became due or within ~~15~~ ~~6~~ 4 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

**Sec. 5.** NRS 353C.170 is hereby amended to read as follows:

353C.170 1. An abstract of the judgment entered pursuant to NRS 353C.160, or a copy thereof, may be recorded in the office of the county recorder of any county.

2. From the time of its recordation, the judgment becomes a lien upon all real and personal property situated in the county that is owned by the

judgment debtor, or which the debtor may afterward acquire, until the lien expires. The lien has the force, effect and priority of a judgment lien and continues for ~~15~~ ~~67~~ 4 years after the date of the judgment so entered by the court clerk unless sooner released or otherwise discharged.

3. Within ~~15~~ ~~67~~ 4 years after the date of the recording of the judgment or within ~~15~~ ~~67~~ 4 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording an affidavit of renewal in the office of the county recorder. From the date of recording, the lien is extended for ~~15~~ ~~67~~ 4 years to all real and personal property situated in the county that is owned by the judgment debtor or acquired by the judgment debtor afterwards, unless the lien is sooner released or otherwise discharged.

**Sec. 6.** NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, the State Controller may, within 4 ~~67~~ years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

(a) The amount of the debt, together with any interest or penalties due thereon;

(b) The name and address of the debtor, as the name and address of the debtor appear on the records of the State Controller;

(c) That the State Controller has complied with all procedures required by law for determining the amount of the debt; and

(d) That the State Controller has notified the debtor in accordance with subsection 2.

2. The State Controller shall, not less than 15 days before the date on which he or she intends to file the certificate, notify the debtor of the State Controller's intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency to which the debt is owed, the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for ~~15~~ ~~67~~ 4 years after the date of recording unless sooner released or otherwise discharged.

4. Within ~~15~~ ~~67~~ 4 years after the date of the recording of the certificate or within ~~15~~ ~~67~~ 4 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording,

the lien is extended for ~~15~~ ~~6~~ 4 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

**Sec. 7.** NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, the State Controller may, in addition to any other remedy provided for in this chapter, give notice of the amount of a debt owed to this State and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this state, who has in his or her possession or under his or her control any credits or other personal property belonging to the debtor or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

(a) Not later than 4 ~~6~~ years after the debt became due; or

(b) Not later than 4 ~~6~~ years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

2. If such notice is given to an officer or agency of this state, the notice must be delivered before the State Controller may file a claim pursuant to NRS 353C.190 on behalf of the debtor.

3. An agency that receives a notice and demand to transmit pursuant to this section may satisfy any debt owed to it by the debtor before it honors the notice and demand to transmit. If the agency is holding a bond or other property of the debtor as security for debts owed or that may become due and owing by the debtor, the agency is not required to transmit the amount of the bond or other property unless the agency determines that holding the bond or other property of the debtor as security is no longer required.

4. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall not thereafter transfer or otherwise dispose of the credits or other personal property of, or debts owed to, the person who is the subject of the demand to transmit without the consent of the State Controller.

5. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the State Controller of, and transmit to the State Controller within the time and in the manner requested by the State Controller, all credits or other personal property in his or her possession or control that belong to, and all debts that he or she owes to, the person who is the subject of the demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to the debtor, the person who owes or controls the payments shall transmit the payments to the State Controller until otherwise notified by the State Controller. If the debt of the

debtor is not paid within 1 year after the date on which the State Controller issued the original demand to transmit, the State Controller shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs the person to continue transmitting payments to the State Controller; or

(b) Notify the person that his or her duty to transmit the payments to the State Controller has ceased.

7. If the notice and demand to transmit is intended to prevent the transfer or other disposition of a deposit in a bank or other depository institution, or of any other credit or personal property in the possession or under the control of the bank or depository institution, the notice must be delivered or mailed to any branch or office of the bank or depository institution at which the deposit is carried or the credit or personal property is held.

8. If any person to whom the State Controller delivers a notice and demand to transmit transfers or otherwise disposes of any property or debts required by this chapter to be transmitted to the State Controller, the person is, to the extent of the value of the property or the amount of the debts so transferred or disposed of, liable to the State Controller for any portion of the debt that the State Controller is unable to collect from the debtor solely by reason of the transfer or other disposition of the property or debt.

9. A debtor who owes a debt to an agency for which the State Controller delivers a notice and demand to transmit concerning the debtor pursuant to this section is entitled to an administrative hearing before that agency to challenge the collection of the debt pursuant to the demand to transmit. Each agency may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.

**Sec. 8.** Chapter 227 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *Except as otherwise provided in subsection 2, the State Controller shall pay an account payable electronically.***

**2. *Upon application of a payee or the payee's representative, the State Controller may waive the requirements of subsection 1 if the State Controller determines that the electronic payment of an account payable would cause the payee to suffer undue hardship or extreme inconvenience.***

**3. *The State Controller may adopt such regulations as are necessary or advisable to carry out the provisions of this section.***

**Sec. 9.** NRS 227.200 is hereby amended to read as follows:

227.200 The State Controller shall:

1. Draw a warrant in favor of any person or governmental payee certified by an agency of state government to receive money from the treasury and deliver or mail the warrant to the State Treasurer who shall sign the warrant and:

(a) ~~Deliver or mail the countersigned warrant,~~ ***Except as otherwise provided in section 8 of this act,*** if it is for ***payment of*** an account payable, ~~directly to~~ ***electronically pay*** the payee or the payee's representative;

(b) If it is for payment of an employee:

(1) Deliver or mail the warrant to the employee or to the appropriate state agency for distribution; or

(2) Deposit the warrant to the credit of the employee by direct deposit at a bank or credit union in which the employee has an account, if the employee has authorized the direct deposit; or

(c) Deposit the warrant to the credit of the payee through a funds transfer.

2. Keep a warrant register, in which the State Controller shall enter all warrants drawn by him or her. The arrangement of this book must be such as to show the bill and warrant number, the amount, out of which fund the warrants are payable, and a distribution of the warrants under the various appropriations.

3. Credit the State Treasurer with all warrants paid.

**Sec. 10.** ~~NRS 239A.070 is hereby amended to read as follows:~~

~~239A.070—This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:~~

~~1—Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.~~

~~2—The Attorney General, State Controller, district attorney, Department of Taxation, Director of the Department of Health and Human Services, Administrator of the Securities Division of the Office of the Secretary of State, public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.~~

~~3—A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.~~

~~4—Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.~~

~~5—A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain the customer's financial records, except when ordered by a court to withhold such notification.~~

~~6—The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.~~

~~7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.~~

~~8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460 [.] or section 3 of this act.~~

~~9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.] (Deleted by amendment.)~~

**Sec. 11.** NRS 333.450 is hereby amended to read as follows:

333.450 1. ~~1. [A]]~~ **Except as otherwise provided in section 8 of this act,** claims for supplies, materials, equipment and services purchased pursuant to the provisions of this chapter must, when approved by the Chief, be paid in the same manner as other claims against the State are required to be paid.

2. The Chief shall annually assess each using agency a fee for the procurement and inventory services provided by the Purchasing Division to the using agency. The fee must be based on the using agency's use of the procurement and inventory services of the Purchasing Division during preceding years. The Chief shall adjust the formula for calculating the fee each biennium.

3. If an agency is not a using agency, the Chief shall assess a fee of not more than the cost to the Division to process the order for the agency.

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

**Sec. 12.** This act becomes effective upon passage and approval.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 189 to Senate Bill No. 81 deletes Sections 2 and 3 in their entirety. It changes the statute of limitations for when the State Controller may take certain action to collect debts owed to the State from six years (as originally proposed in the bill) to four years. This change will conform Senate Bill No. 81 with Senate Bill No. 31, which was approved by the Senate on March 18, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 110.

Bill read second time.

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

Amendment No. 47.

"SUMMARY—Requires the establishment of a ~~centralized licensing office for~~ business ~~licenses~~ **license to engage in contracting in each county** **certain counties and cities** in this State. (BDR 20-820)"

"AN ACT relating to businesses; requiring ~~each~~ **a** board of county commissioners ~~to establish a centralized licensing office to issue business~~



~~licenses in the county; requiring each city and town to cooperate with the board of county commissioners in operating the centralized licensing office and to assign certain proceeds of the city's or town's license taxes to the operating costs of the office;}~~ **and the governing bodies of certain incorporated cities to enter into an agreement to establish a business license to allow a licensed contractor to engage in the business of contracting in the county and cities under certain circumstances;** and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law authorizes counties, cities and towns to issue business licenses and permits to operate a business within the limits of the county, city or town and to collect taxes on those licenses. (NRS 244.335, 266.355, 268.095, 269.170) ~~{Section}~~ **Sections 1 and 2** of this bill ~~{requires each}~~ **require the** board of county commissioners **in a county whose population is 700,000 or more (currently Clark County) and the governing body of each incorporated city whose population is 150,000 or more located in such a county (currently Henderson, Las Vegas and North Las Vegas)** to ~~establish a centralized licensing office within the county where a person may apply for and obtain all the business licenses and permits required by the county, city or town in which the business will operate. Section 2 of this bill requires each city council or other governing body of a city to cooperate with the board of county commissioners of the county in which the city is located in operating the centralized licensing office and further requires the city, if requested by the board of county commissioners, to contribute money to defray a portion of the operating and maintenance costs of the office.~~

Existing law provides several uses to which a city may put the license taxes it collects on business licenses. (NRS 268.095) Section 3 of this bill expands that list to include supporting the operating and maintenance costs of the centralized licensing office. Section 4 of this bill ~~requires each town board of an unincorporated town to cooperate with the board of county commissioners of the county in which the town is located in operating the centralized licensing office and further requires the town, if requested by the board of county commissioners, to contribute money to defray a portion of the operating and maintenance costs of the office.}~~ **enter into an agreement with each other for the establishment of a business license to allow a licensed contractor to engage in the business of contracting in the county and cities if the contractor: (1) has a place of business in an unincorporated area of the county; or (2) does not have a place of business in the county. Sections 1 and 2 further require the board of county commissioners and governing body of each incorporated city to establish by ordinance a system for issuing the business license which sets forth the requirements for obtaining the license and the fees for the issuance and renewal of the license.**

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

**Section 1.** Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. The board of county commissioners in each county whose population is 700,000 or more shall establish a centralized licensing office where a person may apply for and obtain a business license and any other permit required by the county license board, a city licensing agency or any other licensing authority in the county, city or town in which the business will operate.~~

~~2. The centralized licensing office must meet the standards and requirements established by the Secretary of State pursuant to NRS 75.100 as necessary to participate in the state business portal.~~

~~3. The centralized licensing office shall provide upon request an application for a state business license pursuant to chapter 76 of NRS. enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the governing body of each city whose population is 150,000 or more located within the county for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.~~

~~2. The agreement required pursuant to subsection 1 must set forth the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the county and each city that enters into the agreement.~~

~~3. Upon entering into the agreement required pursuant to subsection 1, the board of county commissioners shall establish by ordinance a system for issuing such a business license that authorizes a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each city that entered into the agreement.~~

~~4. An ordinance adopted pursuant to the provisions of subsection 3 must include, without limitation:~~

~~(a) The requirements for obtaining the business license;~~

~~(b) The fees for the issuance and renewal of the business license; and~~

~~(c) Any other requirements necessary to establish the system for issuing the business license.~~

~~5. A person who is licensed as a contractor pursuant to chapter 624 of NRS is eligible to obtain from the county a business license that authorizes the person to engage in the business of contracting within the county and each city located in the county which enters into an agreement pursuant to subsection 1 if the person meets the requirements set forth in the ordinance to qualify for the license and:~~

~~(a) The person maintains only one place of business within the county and the place of business is located within the unincorporated area of the county;~~

**(b) The person maintains more than one place of business within the county and each of those places of business is located within the unincorporated area of the county; or**

**(c) The person does not maintain any place of business within the county.**

**6. A person who obtains a business license described in this section is subject to all other licensing and permitting requirements of the State and any other counties and cities in which the person does business.**

**Sec. 1.5. NRS 244.335 is hereby amended to read as follows:**

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, **and section 1 of this act**, a board of county commissioners may:

(a) Except as otherwise provided in NRS 244.331 to 244.3345, inclusive, 598D.150 and 640C.100, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS. The county license board shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or Secretary of State for the exchange of information concerning taxpayers.

**Sec. 2.** Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The [city council or other] governing body of each incorporated city [in this State] whose population is 150,000 or more and which is located in a county whose population is 700,000 or more, whether organized under general law or special charter, shall ~~f-~~

~~1. Cooperate with the board of county commissioners of the county within which the city is situated in operating the centralized licensing office established in that county pursuant to section 1 of this act; and~~

~~2. If requested by that board of county commissioners, contribute money to assist the board of county commissioners in defraying a portion of the costs of operating and maintaining the centralized licensing office from the proceeds of license taxes collected by the city pursuant to NRS 268.095.] enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the board of county commissioners of the county in which the city is located and the governing body of every other city located within the county whose population is 150,000 or more for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.~~

2. The agreement required pursuant to subsection 1 must set forth the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the county and each city that enters into the agreement.

3. Upon entering into the agreement required pursuant to subsection 1, the governing body of the city shall establish by ordinance a system for issuing such a business license that authorizes a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and cities that entered into the agreement pursuant to subsection 1.

4. An ordinance adopted pursuant to the provisions of subsection 3 must include, without limitation:

(a) The requirements for obtaining the business license;  
(b) The fees for the issuance and renewal of the business license; and  
(c) Any other requirements necessary to establish the system for issuing the business license.

5. A person who is licensed as a contractor pursuant to chapter 624 of NRS is eligible to obtain from the city a business license that authorizes the person to engage in the business of contracting within the county and each city located in the county which enters into an agreement pursuant to subsection 1 if the person meets the requirements set forth in the ordinance to qualify for the license and:

(a) The person maintains only one place of business within the county and the place of business is located within the jurisdiction of the city;

(b) The person maintains more than one place of business within the county and each of those places of business is located within the jurisdiction of the city; or

**(c) The person does not maintain any place of business within the county.**

**6. A person who obtains a business license described in this section is subject to all other licensing and permitting requirements of the State and any other counties and cities in which the person does business.**

**Sec. 3.** NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4, ~~4.1~~ **and section 2 of this act,** the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities; ~~and~~

~~(7) For operating and maintaining the centralized licensing office established pursuant to section 1 of this act.~~

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS. The city licensing agency shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or the Secretary of State for the exchange of information concerning taxpayers.

8. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

**Sec. 4. ~~Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:~~**

~~In an unincorporated town with a town board form of government, the town board shall:~~

~~1. Cooperate with the board of county commissioners of the county within which the town is situated in operating the centralized licensing office established in that county pursuant to section 1 of this act; and~~

~~2. If requested by that board of county commissioners, contribute money to assist the board of county commissioners in defraying a portion of the costs of operating and maintaining the centralized licensing office from the proceeds of license taxes collected by the town pursuant to NRS 269.170.]~~

**(Deleted by amendment.)**

**Sec. 4.5. The governing body of a county whose population is 700,000 or more and each city whose population is 150,000 or more located in the county shall:**



**1. Enter into the agreements required pursuant to sections 1 and 2 of this act; and**

**2. Adopt the ordinances required pursuant to section 1 and 2 of this act,**

**↪ on or before 1 year after the effective date of this act.**

**Sec. 5.** This act becomes effective upon passage and approval.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 47 to Senate Bill No. 110 requires the Board of County Commissioners in Clark County and the governing bodies of those cities in Clark County whose populations are 150,000 or more to enter into an interlocal agreement for the establishment of a business license specific to contractors for operating their business in the county and in those cities. It provides that, upon entering into the interlocal agreement, the county and the affected cities must establish ordinances that authorize a contractor to engage in business in the county and those cities.

The amendment specifies that in order for a person to be eligible to obtain the business license, he or she must meet whatever requirements are set forth in the ordinance and satisfy other requirements relating to the maintenance of the business location in one place, either the city or the unincorporated county, and specifies that a person who obtains the business license be subject to all other licensing and permitting requirements of the State, counties, and cities in which the licensee does business.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 194.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 161.

"SUMMARY—Urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require certain disclosures in class action lawsuits. (BDR S-563)"

"AN ACT relating to civil practice; urging the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in certain class actions to provide ~~to a disclosure~~ **to certain disclosures** under certain circumstances; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under the existing Nevada Rules of Civil Procedure, an attorney in certain class actions is required to make certain disclosures to certain members of the class. Specifically, those disclosures provide that: (1) the court will exclude a member of the class if the member requests such an exclusion, or "opts out" of the class by a specified date; (2) the judgment in the action will include all members of the class who do not opt out of the class; and (3) any member of the class who does not opt out of the class may enter an appearance with the court through the member's attorney. (N.R.C.P. 23) **Under the existing Federal Rules of Civil Procedure, such an attorney is also required to make other disclosures not specifically required pursuant to**

**N.R.C.P. 23, including: (1) the nature of the action; (2) the definition of the class certified; (3) the class claims, issues or defenses; and (4) the time and manner for requesting exclusion from the class. (F.R.C.P. 23)**

This bill urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in such class actions to make ~~an additional disclosure~~ **all the disclosures required pursuant to F.R.C.P. 23** to each member of the class, ~~concerning possible consequences that the member of the class may face if the member does not opt out of the class.~~

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

**Section 1.** The Legislature finds and declares that:

1. A class action is an efficient use of judicial resources which provides a method of resolving many similar claims in one lawsuit rather than litigating each of the claims in separate lawsuits.

2. A person may ~~be included in a class action without realizing that he or she is included in the lawsuit or may not be adequately informed of the ramifications of being included in the lawsuit.~~

~~3. A~~ **benefit greatly from remaining a member of a class and participating in a class action.**

**3. However, a** person may **also** suffer negative consequences as a result of being included in a class action and may not understand that he or she has the ability to opt out of the lawsuit.

4. **Thus, it is important that each person who is included in a class action make an informed decision regarding whether to remain a member of the class and participate in the lawsuit or to opt out of the lawsuit.**

**5. For a person to make such an informed decision, it is necessary to provide the person with sufficient information regarding the lawsuit and how to opt out of the lawsuit.**

6. Under the existing Nevada Rules of Civil Procedure, specifically N.R.C.P. 23, an attorney in certain class actions is required to make certain disclosures to certain members of the class.

~~5. Having an additional disclosure to each member of the class which is clear and noticeable and which sets forth the possible consequences that the member of the class may face if the member does not request to be excluded from the class is in the public interest.~~

~~6~~ **7. Under the existing Federal Rules of Civil Procedure, specifically F.R.C.P. 23, such an attorney is also required to make other disclosures not specifically required pursuant to N.R.C.P. 23, including the nature of the action, the definition of the class certified, the class claims, issues or defenses, and the time and manner for requesting exclusion from the class.**

**8. Providing these additional disclosures would help a member of a class to understand and appreciate more fully his or her decision to remain in the lawsuit or to opt out of the lawsuit.**

9. Therefore, the Legislature urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require ~~such a disclosure,~~ all the disclosures required pursuant to F.R.C.P. 23.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

This amendment, brought to us by our colleague from Boulder City, urges the Supreme Court, through its rules and procedures, to address concerns about people's knowledge of class action lawsuits.

It would expand the public's awareness about their options related to being included in class action lawsuits.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 251.

Bill read second time.

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

Amendment No. 151.

"SUMMARY—Creates the Nevada Sunset Commission to evaluate certain governmental programs and services. (BDR 18-745)"

"AN ACT relating to commissions; creating the Nevada Sunset Commission; providing for its membership; requiring the Commission to evaluate the necessity and efficacy of all governmental programs and services provided in this State; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Section 3** of this bill creates the Nevada Sunset Commission and sets forth the details regarding the members of the Commission, who are appointed by seven different appointing authorities. **Section 5** of this bill sets forth the duties of the Commission which include, without limitation, reviewing and evaluating all governmental programs and services in this State for necessity and efficacy and for duplication by other programs and services offered by the Federal Government, this State or local governments in this State. **Section 4** of this bill requires the Commission to meet at least bimonthly and to annually report its findings and recommendations to the Governor and the Legislature. **Section 6** of this bill authorizes the Commission, with limited exception, to apply for and receive gifts, grants, contributions or other money to carry out its duties.

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

**Section 1.** Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, "Commission" means the Nevada Sunset Commission created by section 3 of this act.*

Sec. 3. 1. *The Nevada Sunset Commission is hereby created.*

2. *The Commission consists of ~~four~~ seven members of the general public:*

- (a) One member appointed by the Governor;*
- (b) One member appointed by the Majority Leader of the Senate;*
- (c) One member appointed by the Minority Leader of the Senate;*
- (d) One member appointed by the Speaker of the Assembly;*
- (e) One member appointed by the Minority Leader of the Assembly;*
- (f) One member appointed by the Nevada League of Cities and Municipalities; and*
- (g) One member appointed by the Nevada Association of Counties.*

3. *All members appointed pursuant to subsection 2 must:*

- (a) Be versed in the operation or management of state or local governments; and*
- (b) Demonstrate the knowledge, judgment and experience to perform the duties of the Commission.*

4. *An elected officer may not be appointed or serve as a member of the Commission.*

~~4~~ 5. *The member of the Commission appointed by the Governor serves, ex officio, as the Chair of the Commission.*

~~5~~ 6. *Each member of the Commission serves at the pleasure of the appointing authority who appointed the member.*

~~6~~ 7. *After the initial terms, each member of the Commission serves for a term of 3 years. Each member of the Commission continues in office until the member's successor is appointed. Any member of the Commission may be reappointed.*

~~7~~ 8. *A vacancy in the membership of the Commission must be filled in the same manner as the original appointment for the remainder of the unexpired term.*

~~8~~ 9. *The members of the Commission serve without compensation. If sufficient money is available, the members of the Commission are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the Commission.*

Sec. 4. 1. *The Commission shall meet at the call of the Chair as frequently as required to perform its duties, but no less often than every other month.*

2. *A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those present at any meeting is sufficient for any official action taken by the Commission.*

3. *The Commission shall, on or before January 1 of each year, submit a report to the Governor and the Legislature, or if the Legislature is not in session, to the Legislative Commission, summarizing the Commission's*

*findings and activities for the previous year. In each report submitted on or before January 1 of each odd-numbered year, the Commission shall include any recommendations for legislation based on its review of governmental programs and services for the previous biennium.*

*Sec. 5. The Commission shall continuously review all governmental programs and services provided in this State. Such review must include, without limitation:*

*1. An evaluation of whether the program or service is effectively serving the purpose for which it was created;*

*2. An evaluation of the necessity of the program or service, including, without limitation, a consideration of any change in state or federal law since the time the program or service was created; and*

*3. An examination of other programs and services provided by the Federal Government, this State and local governments in this State to determine if any other provided programs or services duplicate those provided by the program or service.*

*Sec. 6. ~~The~~*

*1. Except as otherwise provided in subsection 2, the Commission may apply for and receive gifts, grants, contributions or other money from governmental and private agencies, affiliated associations and other persons for the purposes of carrying out the provisions of this chapter and for defraying expenses incurred by the Commission in the discharge of its duties.*

*2. The Commission may not receive any gift, grant, contribution or other money from a governmental agency that the Commission is reviewing, examining or evaluating.*

*Sec. 7. As soon as practicable after July 1, 2011:*

*1. The Governor, the Majority Leader of the Senate and the Minority Leader of the Senate shall each appoint one member of the Nevada Sunset Commission created by section 3 of this act to a term that expires on July 1, 2013; and*

*2. The Speaker of the Assembly, the Minority Leader of the Assembly, the Nevada League of Cities and Municipalities and the Nevada Association of Counties shall each appoint one member of the Nevada Sunset Commission created by section 3 of this act to a term that expires on July 1, 2014.*

*Sec. 8. This act becomes effective on July 1, 2011.*

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

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

Amendment No. 151 to Senate Bill No. 251 provides that the members appointed to the Nevada Sunset Commission must be members of the general public who are versed in the operation or management of state or local governments and demonstrate the knowledge, judgment, and experience to perform the duties of the Commission; and specifies that the

Commission may not receive any gift, grant, contribution, or other money from a governmental agency that the Commission is reviewing, examining, or evaluating.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 256.

Bill read second time.

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

Amendment No. 211.

"SUMMARY—Revises provisions relating to controlled substances. (BDR 40-419)"

"AN ACT relating to controlled substances; prohibiting certain acts relating to the cultivation of marijuana; ~~requiring the State Board of Pharmacy to include on the list of schedule I controlled substances certain substances which are known as synthetic marijuana; revising provisions relating to the medical use of marijuana;~~ providing ~~civil and criminal~~ penalties; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Section 1** of this bill prohibits a person from knowingly or intentionally manufacturing, growing, planting, cultivating, harvesting, drying, propagating or processing marijuana, except as specifically authorized for the medical use of marijuana. The severity of the punishment for a violation of **section 1** depends upon the number of marijuana plants involved in the violation. A person convicted of a violation of **section 1** is also required to pay all costs associated with any necessary cleanup and disposal.

**Sections 5 and 6** of this bill include internal references to **section 1** of this bill to indicate that **section 1** will be **: (1)** codified in chapter 453 of NRS in proximity to similar offenses involving controlled substances ~~1, but section 1 will not be~~ **; and (2)** treated in the same manner as those offenses for other purposes in NRS, such as being included in the list of crimes related to racketeering and being included in the definition of "immorality" for the purposes of certain provisions related to educational personnel.

~~Existing law provides that the limited and regulated use of marijuana by persons who suffer from certain medical conditions and who obtain a registry identification card through a program governed by the Health Division of the Department of Health and Human Services is exempt from prosecution under the laws of this State. (Chapter 453A of NRS) Under existing law, the Health Division may deny a registry identification card to, or revoke a card issued to, a person who has been convicted of knowingly or intentionally selling a controlled substance. (NRS 453A.210, 453A.225) Sections 3 and 4 of this bill authorize the Health Division to deny a registry identification card to, or revoke a card issued to, a person who: (1) has been convicted of any felony; (2) has been convicted of a violent crime; (3) has been convicted of certain sexual offenses; or (4) is on probation or parole. Section 7 of this bill~~

~~provides that these requirements: (1) apply to applications for registry identification cards submitted on or after October 1, 2011, or designations of persons as primary caregivers submitted on or after that date; and (2) do not revoke a registry identification card issued before that date unless, on or after October 1, 2011, the person who holds the card is convicted of an offense which prohibits the issuance of a card to that person.~~

~~Existing law authorizes the State Board of Pharmacy to adopt regulations that add or delete substances from the schedules of controlled substances. (NRS 453.146) Existing law also provides that a person convicted of the unauthorized manufacturing, importing, transporting, selling or dispensing of a schedule I controlled substance is guilty of a category B felony and that the punishment depends on the number of prior offenses committed by the person. (NRS 453.321, 453.322) In addition, existing law provides that a person convicted of the unauthorized possession of a schedule I controlled substance is guilty of a category E felony if it is the person's first or second offense and a category D felony if it is the person's third or subsequent offense. (NRS 453.336) Section 2 of this bill requires the Board to classify certain substances which are similar to marijuana as controlled substances included in schedule I.]~~

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

**Section 1.** Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A person shall not knowingly or intentionally manufacture, grow, plant, cultivate, harvest, dry, propagate or process marijuana, except as specifically authorized by the provisions of this chapter and chapter 453A of NRS.*

*2. Unless a greater penalty is provided in NRS 453.339, a person who violates subsection 1 shall be punished, if the quantity involved:*

*(a) Is ~~##~~ 8 to ~~##~~ 75 marijuana plants, for a ~~gross misdemeanor~~ category E felony as provided in NRS 193.130.*

*(b) Is ~~##~~ 76 to ~~##~~ 100 marijuana plants, for a category ~~E~~ D felony as provided in NRS 193.130.*

*(c) ~~Is 76 to 100 marijuana plants, for a category D felony as provided in NRS 193.130.~~*

*~~##~~ Is more than 100 marijuana plants, for a category C felony as provided in NRS 193.130.*

*3. In addition to the punishment imposed pursuant to subsection 2, the court shall order a person convicted of a violation of subsection 1 to pay all costs associated with any necessary cleanup and disposal related to the manufacturing, growing, planting, cultivation, harvesting, drying, propagation or processing of the marijuana.*

**Sec. 2.** ~~NRS 453.146 is hereby amended to read as follows:~~

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

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

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

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

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

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

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

~~6. The Board shall designate as a controlled substance included in schedule I any material, compound, mixture or preparation which contains any quantity of the following substances or their salts, isomers or salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:~~

- ~~(a) 1-pentyl 3-(1-naphthoyl)indole, which is also known as JWH-018.~~
- ~~(b) 1-butyl 3-(1-naphthoyl)indole, which is also known as JWH-073.~~
- ~~(c) 1-[2-(1-morpholinyl)ethyl]-3-(1-naphthoyl)indole, which is also known as JWH-200.~~
- ~~(d) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, which is also known as CP-47,497.~~
- ~~(e) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, which is also known as cannabicyclohexanol or CP-47,497-C8 homologue. (Deleted by amendment.)~~

Sec. 3. ~~NRS 453A.210 is hereby amended to read as follows:~~



~~453A.210 1. The Division shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section.~~

~~2. Except as otherwise provided in subsections 3 and 5 and NRS 453A.225, the Division or its designee shall issue a registry identification card to a person who is a resident of this State and who submits an application on a form prescribed by the Division accompanied by the following:~~

~~(a) Valid, written documentation from the person's attending physician stating that:~~

~~(1) The person has been diagnosed with a chronic or debilitating medical condition;~~

~~(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and~~

~~(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;~~

~~(b) The name, address, telephone number, social security number and date of birth of the person;~~

~~(c) Proof satisfactory to the Division that the person is a resident of this State;~~

~~(d) The name, address and telephone number of the person's attending physician; and~~

~~(e) If the person elects to designate a primary caregiver at the time of application:~~

~~(1) The name, address, telephone number and social security number of the designated primary caregiver; and~~

~~(2) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver.~~

~~3. The Division or its designee shall issue a registry identification card to a person who is under 18 years of age if:~~

~~(a) The person submits the materials required pursuant to subsection 2; and~~

~~(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement setting forth that:~~

~~(1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;~~

~~(2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;~~

~~(3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and~~

~~(4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.~~

~~4. The form prescribed by the Division to be used by a person applying for a registry identification card pursuant to this section must be a form that is in quintuplicate. Upon receipt of an application that is completed and submitted pursuant to this section, the Division shall:~~

- ~~(a) Record on the application the date on which it was received;~~
- ~~(b) Retain one copy of the application for the records of the Division; and~~
- ~~(c) Distribute the other four copies of the application in the following manner:~~

- ~~(1) One copy to the person who submitted the application;~~
- ~~(2) One copy to the applicant's designated primary caregiver, if any;~~
- ~~(3) One copy to the Central Repository for Nevada Records of Criminal History; and~~

~~(4) One copy to:~~

~~(I) If the attending physician of the applicant is licensed to practice medicine pursuant to the provisions of chapter 630 of NRS, the Board of Medical Examiners; or~~

~~(II) If the attending physician of the applicant is licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS, the State Board of Osteopathic Medicine.~~

~~→ The Central Repository for Nevada Records of Criminal History shall report to the Division its findings as to the criminal history, if any, of an applicant within 15 days after receiving a copy of an application pursuant to subparagraph (3) of paragraph (c). The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall report to the Division its findings as to the licensure and standing of the applicant's attending physician within 15 days after receiving a copy of an application pursuant to subparagraph (4) of paragraph (c).~~

~~5. The Division shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within 30 days after receiving the application. The Division may contact an applicant, the applicant's attending physician and designated primary caregiver, if any, by telephone to determine that the information provided on or accompanying the application is accurate. The Division may deny an application only on the following grounds:~~

~~(a) The applicant failed to provide the information required pursuant to subsections 2 and 3 to:~~

- ~~(1) Establish the applicant's chronic or debilitating medical condition; or~~

~~(2) Document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with that condition;~~

~~(b) The applicant failed to comply with regulations adopted by the Division, including, without limitation, the regulations adopted by the Administrator pursuant to NRS 453A.740;~~

~~(c) The Division determines that the information provided by the applicant was falsified;~~

~~(d) The Division determines that the attending physician of the applicant is not licensed to practice medicine or osteopathic medicine in this State or is not in good standing, as reported by the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable;~~

~~(e) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable [ , has] :~~

~~(1) Has been convicted of [knowingly or intentionally selling a controlled substance;] a felony in this State or under the laws of any state, territory or possession of the United States;~~

~~(2) Has been convicted of a crime involving the use or threatened use of force or violence against a victim in this State or any other state, territory or possession of the United States;~~

~~(3) Has been convicted of a sexual offense; or~~

~~(4) Is on parole or probation for a conviction obtained in this State or in any other state, territory or possession of the United States;~~

~~(f) The Division has prohibited the applicant from obtaining or using a registry identification card pursuant to subsection 2 of NRS 453A.300;~~

~~(g) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card revoked pursuant to NRS 453A.225; or~~

~~(h) In the case of a person under 18 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph (b) of subsection 3.~~

~~6. The decision of the Division to deny an application for a registry identification card is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 18 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the Division. A judicial review authorized pursuant to this subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in chapter 233B of NRS for reviewing a final decision of an agency.~~

~~7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the Division or a court of competent jurisdiction authorizes reapplication in a shorter time.~~

~~8. Except as otherwise provided in this subsection, if a person has applied for a registry identification card pursuant to this section and the Division has not yet approved or denied the application, the person, and the person's designated primary caregiver, if any, shall be deemed to hold a registry identification card upon the presentation to a law enforcement officer of the copy of the application provided to him or her pursuant to subsection 4. A person may not be deemed to hold a registry identification card for a period of more than 30 days after the date on which the Division received the application.~~

~~9. As used in this section [,"resident"]:~~

~~(a) "Resident" has the meaning ascribed to it in NRS 483.141.~~

~~(b) "Sexual offense" means any offense listed in NRS 213.107 or any offense committed in another state, territory or possession of the United States that, if committed in this State, would be an offense listed in NRS 213.107. (Deleted by amendment.)~~

~~Sec. 4. [NRS 453A.225 is hereby amended to read as follows:~~

~~453A.225 1. If, at any time after the Division or its designee has issued a registry identification card to a person pursuant to paragraph (a) of subsection 1 of NRS 453A.220, the Division determines, on the basis of official documents or records or other credible evidence, that the person:~~

~~(a) Provided falsified information on his or her application to the Division or its designee, as described in paragraph (c) of subsection 5 of NRS 453A.210; or~~

~~(b) Has been convicted of [knowingly or intentionally selling a controlled substance, as] an offense described in subparagraph (1), (2) or (3) of paragraph (c) of subsection 5 of NRS 453A.210;~~

~~the Division shall immediately revoke the registry identification card issued to that person and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.~~

~~2. If, at any time after the Division or its designee has issued a registry identification card to a person pursuant to paragraph (b) of subsection 1 of NRS 453A.220 or pursuant to NRS 453A.250, the Division determines, on the basis of official documents or records or other credible evidence, that the person has been convicted of [knowingly or intentionally selling a controlled substance, as] an offense described in subparagraph (1), (2) or (3) of paragraph (c) of subsection 5 of NRS 453A.210, the Division shall immediately revoke the registry identification card issued to that person.~~

~~3. Upon the revocation of a registry identification card pursuant to this section:~~

~~(a) The Division shall send, by certified mail, return receipt requested, notice to the person whose registry identification card has been revoked, advising the person of the requirements of paragraph (b); and~~

~~(b) The person shall return his or her registry identification card to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).~~

~~4. The decision of the Division to revoke a registry identification card pursuant to this section is a final decision for the purposes of judicial review.~~

~~5. A person whose registry identification card has been revoked pursuant to this section may not reapply for a registry identification card pursuant to NRS 453A.210 for 12 months after the date of the revocation, unless the Division or a court of competent jurisdiction authorizes reapplication in a shorter time. **(Deleted by amendment.)**~~

Sec. 5. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;
15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, ~~except a violation of~~ **and section 1 of this act**, or 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
24. Receiving, possessing or withholding stolen goods valued at \$250 or more;
25. Embezzlement of money or property valued at \$250 or more;
26. Obtaining possession of money or property valued at \$250 or more, or obtaining a signature by means of false pretenses;

27. Perjury or subornation of perjury;
28. Offering false evidence;
29. Any violation of NRS 201.300 or 201.360;
30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;
31. Any violation of NRS 205.506, 205.920 or 205.930;
32. Any violation of NRS 202.445 or 202.446; or
33. Any violation of NRS 205.377.

**Sec. 6.** NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, ~~except an act forbidden by~~ **and section 1 of this act**, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

**Sec. 7.** ~~1. The amendatory provisions of section 3 of this act apply to a person who:~~

~~(a) Submits an application for a registry identification card pursuant to NRS 453A.210 on or after October 1, 2011.~~

~~(b) Is designated as the primary caregiver of a person.~~

~~(1) On an application for a registry identification card which is submitted by that person pursuant to NRS 453A.210 on or after October 1, 2011; or~~

~~(2) Pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 453A.230 or paragraph (b) of subsection 1 of NRS 453A.250 on or after October 1, 2011.~~

~~2. The amendatory provisions of section 4 of this act apply to a person who holds a registry identification card only if:~~

~~(a) The registry identification card is issued to that person pursuant to paragraph (a) of subsection 1 of NRS 453A.220 and the person:~~

~~(1) Submits the application for that registry identification card pursuant to NRS 453A.210 on or after October 1, 2011; or~~

~~(2) Is convicted of an offense described in NRS 453A.210, as amended by section 4 of this act, on or after October 1, 2011.~~

~~(b) The registry identification card is issued to that person pursuant to paragraph (b) of subsection 1 of NRS 453A.220 and:~~

~~(1) The application in which the person is designated as the primary caregiver of a person is submitted pursuant to NRS 453A.210 on or after October 1, 2011;~~

~~(2) On or after October 1, 2011, the person is designated as the primary caregiver of a person pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 453A.230 or paragraph (b) of subsection 1 of NRS 453A.250; or~~

~~(3) The person is convicted of an offense described in NRS 453A.210, as amended by section 4 of this act, which occurred on or after October 1, 2011. **(Deleted by amendment.)**~~

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 211 revises the provisions to Senate Bill No. 256 by removing provisions related to synthetic marijuana and the medical marijuana program. It removes the provisions of a gross misdemeanor for a certain number of marijuana plants. The amendment also revises the number of plants that constitute a category E felony.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 262.

Bill read second time.

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

Amendment No. 190.

"SUMMARY—Provides for the incorporation of the City of Laughlin contingent upon the approval of the voters in the City. (BDR S-125)"

"AN ACT providing a charter for the City of Laughlin, in Clark County, Nevada; providing for an election to be held on the question of incorporation;

making the incorporation of the City contingent upon approval of this act by qualified electors of the City; providing penalties; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, the Legislature may provide for the incorporation of a city by a special act. (Nev. Const. Art. 8, 8) **Section 1** of this bill provides a charter for the City of Laughlin. **Section 4** of this bill requires the Committee on Local Government Finance to prepare a report with respect to the fiscal feasibility of the incorporation of the City of Laughlin and submit it to the Board of County Commissioners of Clark County by December 31, 2011. **Sections 5 and 17** of this bill make the incorporation of the City of Laughlin contingent upon the approval of the Charter by the qualified electors of the City. **Sections 5-9** of this bill provide for the Board of County Commissioners of Clark County to conduct an election on the question of incorporation and a consolidated primary election for candidates for City Council and Mayor. **Sections 11 and 12** of this bill provide for a general election of members of the City Council and a Mayor, contingent upon the approval of incorporation. **Section 10** of this bill authorizes the Board of County Commissioners to accept gifts, grants and donations to pay for any expenses associated with incorporation, including, without limitation, the costs of the Committee on Local Government Finance for preparing the fiscal feasibility report and for the election held on the question of incorporation and the general election of the Mayor and City Council. **Sections 2 and 10** of this bill provide that to the extent that gifts, grants and donations do not cover such expenses, the Board of County Commissioners shall use the Fort Mohave Valley Development Fund to pay the costs.

**Sections 13-15** of this bill authorize the elected City Council to perform various functions before the effective date of incorporation, including preparing and adopting a budget, preparing and adopting ordinances, negotiating and preparing contracts for personnel and various services, ~~and~~ negotiating with Clark County for the equitable apportionment of the fixed assets of Clark County that are located in the City of Laughlin, ~~and~~ and negotiating and preparing certain cooperative agreements with the County. **Section 17** provides for the effective date of incorporation, which will be July 1, 2013.

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

**Section 1.** The Charter of the City of Laughlin is as follows. Each section of the Charter shall be deemed to be a section of this act for the purpose of any subsequent amendment.

**ARTICLE I**

**INCORPORATION OF CITY; GENERAL POWERS; BOUNDARIES; ANNEXATIONS;  
CITY OFFICES**

**Section 1.010 Preamble: Legislative intent; powers.**



1. *In order to provide for the orderly government of the City of Laughlin and the general welfare of its residents, the Legislature hereby establishes this Charter for the government of the City of Laughlin. It is expressly declared as the intent of the Legislature that all provisions of this Charter be liberally construed to carry out the express purposes of the Charter and that the specific mention of particular powers shall not be construed as limiting in any way the general powers necessary to carry out the purposes of the Charter.*

2. *Any powers expressly granted by this Charter are in addition to any powers granted to a city by the general law of this State. All provisions of the Nevada Revised Statutes which are applicable generally to cities, unless otherwise expressly mentioned in this Charter or chapter 265, 266 or 267 of NRS, and which are not in conflict with the provisions of this Charter apply to the City of Laughlin.*

*Sec. 1.020 Incorporation of City.*

1. *All persons who are inhabitants of that portion of the State of Nevada embraced within the limits set forth in section 1.030 shall constitute a political and corporate body by the name of "City of Laughlin," and by that name they and their successors shall be known in law, have perpetual succession and may sue and be sued in all courts.*

2. *Whenever used throughout this Charter, "City" means the City of Laughlin.*

*Sec. 1.030 Description of territory. The territory embraced in the City is hereby defined and established as follows:*

1. *All those portions of Township 32 South, Range 64 East; Township 32 South, Range 65 East; Township 32 South, Range 66 East; Township 33 South, Range 65 East; Township 33 South, Range 66 East; Township 34 South, Range 66 East, M.D.B. & M., which are located in the County of Clark, State of Nevada.*

2. *Excepting therefrom the following described land:*

(a) *That land referred to as the Fort Mojave Indian Reservation, approximately 3,842 acres of land, being a portion of Sections 17, 19, 20 thru 22, 27 thru 28, 30 thru 33 and all of Section 29 of Township 33 South, Range 66 East, Clark County, Nevada, and a portion of Section 5 of Township 34 South, Range 66 East, Clark County, Nevada.*

(b) *Further excepting therefrom Township 34 South, Range 66 East, M.D.B. & M., Clark County, Nevada.*

(c) *Further excepting therefrom the following described Parcels of land referred to as the "Hotel Corridor":*

(1) *Parcel 1. The South Half (S 1/2) of the South Half of Section 12 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom State Route 163 recorded in Book 920722 as Instrument 00564, Official Records of Clark County, Nevada, together with Parcel 1 of File 70 of Parcel Maps at Page 20, Official Records of Clark County Nevada, also together with Civic Way recorded in Book 910906 as*

*Instrument Number 00680, Official Records of Clark County, Nevada, lying within the South Half (S 1/2) of the South Half (S 1/2) of said Section 12.*

*(2) Parcel 2. Section 13, Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom that remaining portion of Parcel 1 of File 53 of Parcel Maps at Page 53, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 13, more particularly described as beginning at the Northeast corner of said Parcel 1, said point being on the Southerly right-of-way line of Bruce Woodbury Drive (90.00 feet wide); thence departing said Southerly right-of-way line and along the Easterly line of said Parcel 1, South 01°08'21" West, 100.00 feet to the Northerly line of Parcel 4 as shown by map thereof recorded in File 98 of Parcel Maps at Page 17, Official Records of Clark County, Nevada; thence along said Northerly line of Parcel 4 the following 2 courses: South 89°59'51" East, 75.00 feet; North 01°28'01" East, 100.00 feet to said Southerly right-of-way and said Northerly line of Parcel 1; thence along said Southerly right-of-way line and along said Northerly line of Parcel 1, South 89°59'51" East, 75.00 feet to the Point of Beginning.*

*(3) Parcel 3. Section 24 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada excepting therefrom Government Lots 7 & 8 of said Section 24, together with Lots 1 & 2 of File 54 of Parcel Maps at Page 79, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 24.*

*Sec. 1.040 Limitation on future annexation. Notwithstanding any provision of law to the contrary, no area may be annexed into the boundaries of the City unless a majority of the owners of the real property that make up the area petition the City Council for annexation into the City.*

*Sec. 1.050 Form of government.*

*1. The municipal government provided by this Charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the Constitution of this State and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall:*

- (a) Enact local legislation;*
- (b) Adopt budgets;*
- (c) Determine policies; and*
- (d) Appoint the City Manager, who shall execute the laws and administer the government of the City.*

*2. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance.*

*Sec. ~~1.050~~ 1.060 Construction of Charter. This Charter, except where the context by clear implication otherwise requires, must be construed as follows:*

*1. The titles or leadlines which are applied to the articles and sections of this Charter are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provision of this Charter.*

*2. The singular number includes the plural number, and the plural includes the singular.*

*3. The present tense includes the future tense.*

## **ARTICLE II**

### **CITY COUNCIL**

*Sec. 2.010 Number; selection and term; recall. The Council shall have four Council members and a Mayor elected from the City at large in the manner provided in Article X, for terms of 4 years and until their successors have been elected and have taken office as provided in section 2.100, subject to recall as provided in Article XI. No Council member shall represent any particular constituency or district of the City, and each Council member shall represent the entire City.*

*Sec. 2.020 Qualifications.*

*1. No person shall be eligible for the office of Council member or Mayor unless he or she is a qualified elector of the City and has been a resident of the City for at least 1 year immediately before the election in which he or she is a candidate. He or she shall hold no other elective public office, but may hold a commission as a notary public or be a member of the Armed Forces reserve. No employee of the City or officer thereof, excluding Council members, receiving compensation under the provisions of this Charter or any City ordinance, shall be a candidate for or eligible for the office of Council member or Mayor without first resigning from city employment or city office.*

*2. If a Council member or the Mayor ceases to possess any of the qualifications enumerated in subsection 1 or is convicted of a felony, or ceases to be resident of the City, his or her office shall immediately become vacant.*

*Sec. 2.030 Salaries.*

*1. For the first 2 years after election of the first members of the Council after adoption of this Charter, each member of the Council shall receive as compensation for his or her services as such a monthly salary of \$125.00, and the member elected to fill the Office of Mayor shall receive the additional amount of \$25.00 for each month said member shall fill the Office of Mayor.*

*2. After the period specified in subsection 1, the Council may determine the annual salaries of the Mayor and Council members by ordinance. The Council shall not adopt an ordinance which increases or decreases the*

*salary of the Mayor or the Council members during the term for which they have been elected or appointed.*

*3. Absence of a member of the Council from all regular and special meetings of the Council during any calendar month shall render him or her ineligible to receive the monthly salary for such a calendar month unless by permission of the Council expressed in its official minutes.*

*4. The Mayor and Council members shall be reimbursed for their personal expenses when conducting or traveling on city business as authorized by the Council. Reimbursement for use of their personal automobiles will be at the rate per mile established by the rules of the Internal Revenue Service of the United States.*

*5. The Mayor and Council members shall receive no additional compensation or benefit other than that mandated by state or federal law.*

*Sec. 2.040 Mayor; Mayor Pro Tem; duties.*

*1. The Mayor shall:*

*(a) Serve as a member of the Council and preside over its meetings;*  
*(b) Have no administrative duties; and*  
*(c) Be recognized as the head of the city government for all ceremonial purposes and for the purposes of dealing with emergencies if martial law has been imposed on the City by the State or Federal Government.*

*2. The Council shall elect one of its members to be Mayor Pro Tem, who shall:*

*(a) Hold such office and title, without additional compensation, for the period of 1 year;*  
*(b) Perform the duties of the Mayor during the absence or disability of the Mayor; and*  
*(c) Assume the position of Mayor, if that office becomes vacant, until the next regular election.*

*Sec. 2.050 Powers. Except as otherwise provided in this Charter, all powers of the City and the determination of all matters of policy shall be vested in the Council. The Council shall have, without limitation, the power to:*

*1. Establish other administrative departments and distribute the work of divisions.*

*2. Adopt the budget of the City.*

*3. Adopt civil service rules and regulations.*

*4. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.*

*5. Appoint the members of all boards, commissions and committees for specific or indefinite terms as provided elsewhere in this Charter or in various resolutions or ordinances, with all such persons serving at the pleasure of the Council, provided, however, that all persons so appointed must be and remain bona fide residents of the City during the tenure of each appointment.*

*6. Levy such taxes as are authorized by applicable laws.*

*Sec. 2.060 Powers: Zoning and Planning. The Council may:*

*1. Divide the City into districts and regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the districts.*

*2. Establish and adopt ordinances and regulations relating to the subdivision of land.*

*Sec. 2.070 Council not to interfere in removals.*

*1. Neither the Council nor any of its members shall direct or request the removal of any person from office by the City Manager or by any of his or her subordinates, or in any manner take part in the removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry and as otherwise provided in this Charter, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.*

*2. Any Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, is guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.*

*Sec. 2.080 Vacancies in Council. Except as otherwise provided in NRS 268.325, a vacancy on the Council must be filled by appointment by a majority of the remaining members of the Council within 30 days or after three regular or special meetings, whichever is the shorter period of time. In the event of a tie vote among the remaining members of the Council, selection must be made by lot. No such appointment extends beyond the next municipal election.*

*Sec. 2.090 Creation of new departments or offices; change of duties. The Council by ordinance may:*

*1. Create, change and abolish offices, departments or agencies, other than offices, departments and agencies established by this Charter.*

*2. Assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.*

*Sec. 2.100 Induction of Council into office; meetings of Council. The Council shall meet within 10 days after each city primary election and each city general election specified in Article X, to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members shall be inducted into office at the next regular Council meeting following certification of the applicable city general election results. Immediately following such induction, the Mayor Pro Tem shall be designated as provided in section 2.040. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month.*

*Sec. 2.110 Council to be judge of qualifications of its members. The Council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to review by the courts.*

*Sec. 2.120 Rules of procedure.*

*1. The Council shall establish rules by ordinance for the conduct of its proceedings and to preserve order at its meetings. It shall, through the City Clerk, maintain a journal record of its proceedings which shall be open to public inspection. Any member of the Council may place items on the Council agenda to be considered by the Council.*

*2. The Council may organize special committees of its members for the principal functions of the government of the City. It shall be the duty of each such committee to be informed of the business of the city government included within the assigned functions of the committee, and, as ordered by the Council, to report to the Council information or recommendations which shall enable the Council properly to legislate.*

*Sec. 2.130 Investigations by Council.*

*1. The Council shall have power to inquire into the conduct of any office, department, agency or officer of the City and to make investigations as to municipal affairs. The Council shall have the power and authority on any investigation or proceeding pending before it to impel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council.*

*2. Subpoenas may be issued in the name of the City pursuant to subsection 1 and may be attested by the City Clerk. Disobedience of such subpoenas or the refusal to testify upon other than constitutional grounds shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.*

*Sec. 2.140 Council's power to make and pass ordinances, resolutions.*

*1. The Council shall have the power to make and pass all ordinances, resolutions and orders, not repugnant to the Constitution of the United States or of the State of Nevada or to the provisions of this Charter, necessary for the municipal government and the management of the city affairs, for the execution of all powers vested in the City, and for making effective the provisions of this Charter.*

*2. The Council shall have the power to enforce obedience to its ordinances by such fines, imprisonments or other penalties as the Council may deem proper, but the punishment for any offense shall not be greater than the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time such offense occurred.*

*3. The Council may enact and enforce such local police ordinances as are not in conflict with the general laws of the State of Nevada.*

4. Any offense made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor in the City of Laughlin whenever such offense is committed within the city limits.

*Sec. 2.150 Voting on ordinances and resolutions.*

1. No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the Council.

2. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member of the Council, the ayes and noes shall be taken and recorded upon any vote. All members of the Council present at any meeting shall vote, except upon matters in which they have financial interest or when they are reviewing an appeal from a decision of a city commission, before which they have appeared as an advocate for or an adversary against the decision being appealed.

*Sec. 2.160 Enactment of ordinances; subject matter, titles.*

1. No ordinance shall be passed except by bill, and when any ordinance is amended, the section or sections thereof must be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.

2. Every ordinance, except those revising the city ordinances, shall embrace but one subject and matters necessarily connected therewith and pertaining thereto, and the subject shall be clearly indicated in the title, and in all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.

*Sec. 2.170 Introduction of ordinances; notice; final action; publication.*

1. The style of ordinances must be as follows: "The Council of the City of Laughlin does ordain." All proposed ordinances, when first proposed, must be read by title to the Council, after which an adequate number of copies of the ordinance must be deposited with the City Clerk for public examination and distribution upon request. Notice of the deposit of the copies, together with an adequate summary of the ordinance, must be published once in a newspaper published in the City, if any, otherwise in some newspaper published in the County which has a general circulation in the City, at least 10 days before the adoption of the ordinance. At any meeting at which final action on the ordinance is considered, at least one copy of the ordinance must be available for public examination. The Council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days after the date of publication, except that in cases of emergency, by unanimous consent of the whole Council, final action may be taken immediately or at a special meeting called for that purpose.

2. After final adoption, the ordinance must be signed by the Mayor, and, together with the votes cast on it, must be:

(a) Published by title, together with an adequate summary including any amendments, once in a newspaper published in the City, if any, otherwise

*in a newspaper published in the County and having a general circulation in the City; and*

*(b) Posted in full in the city hall.*

*3. Except as otherwise provided in subsections 4 and 5, all ordinances become effective 20 days after publication.*

*4. Emergency ordinances having for their purpose the immediate preservation of the public peace, health or safety, containing a declaration of and the facts constituting its urgency and passed by a four-fifths vote of the Council, and ordinances calling or otherwise relating to a municipal election, become effective on the date specified therein.*

*5. All ordinances having for their purpose the lease or sale of real estate owned by the City, except city-owned subdivision or cemetery lots, may be effective not fewer than 5 days after the publication.*

*Sec. 2.180 Adoption of specialized, uniform codes. An ordinance adopting any specialized or uniform building, plumbing or electrical code or codes, printed in book or pamphlet form or any other specialized or uniform code or codes of any nature whatsoever so printed, may adopt such code, or any portion thereof, with such changes as may be necessary to make the same applicable to conditions in the City, and with such other changes as may be desirable, by reference thereto, without the necessity of reading the same at length. Such code, upon adoption, need not be published if an adequate number of copies of such code, either typewritten or printed, with such changes, if any, have been filed for use and examination by the public in the Office of the City Clerk at least 1 week before the passage of the ordinance adopting the code, or any amendment thereto. Notice of such filing shall be given in accordance with the provisions of subsection 2 of section 2.170.*

*Sec. 2.190 Codification of ordinances; publication of Code.*

*1. The Council shall have the power to codify and publish a code of its municipal ordinances in the form of a Municipal Code, which Code may, at the election of the Council, have incorporated therein a copy of this Charter and such additional data as the Council may prescribe.*

*2. The ordinances in the Code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, attestations and other formal parts.*

*3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Laughlin."*

*4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.*

*Sec. 2.200 Independent annual audit. Before the end of each fiscal year, the Council shall designate qualified accountants who, as of the end of the fiscal year, shall make a complete and independent audit of accounts*



*and other evidences of financial transactions of the city government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the Council, shall postaudit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.*

**ARTICLE III**  
**CITY MANAGER**

*Sec. 3.010 Appointment and qualifications.*

*1. The Council shall appoint a City Manager by a majority vote who by virtue of his or her position as City Manager shall be an officer of the City and who shall have the powers and shall perform the duties in this Charter provided. No member of the Council shall receive such appointment during the term for which he or she shall have been elected, nor within 1 year after the expiration of his or her term.*

*2. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications. The City Manager shall be paid a salary commensurate with his or her responsibilities as Chief Administrative Officer of the City as set by resolution of the Council.*

*3. The Council shall appoint the City Manager for an indefinite term and may remove him or her in accordance with the procedures set forth in section 3.020.*

*Sec. 3.020 Removal.*

*1. Before removal of the City Manager may become effective, the Council must adopt, by the affirmative votes of at least four members, a resolution that must state the reasons for the proposed removal of the City Manager and may provide for the suspension of the City Manager from duty, but shall in any case cause to be paid him or her forthwith any unpaid balance of his or her salary and his or her salary for the next calendar month following the date of adoption of the resolution. A copy of the resolution must be delivered promptly to the City Manager.*

*2. The City Manager may reply in writing, and any member of the Council may request a public hearing, which, if requested, shall be held not earlier than 20 days or later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council may remove the City Manager by motion adopted by the affirmative votes of at least four members of the Council.*

*Sec. 3.030 Powers and duties. The City Manager shall be the Chief Administrative Officer and the Head of the Administrative Branch of the city government. The City Manager shall be responsible to and under the direction of the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers,*

*responsibilities, and duties, the City Manager shall have the power and be required to:*

*1. Subject to the civil service rules and regulations adopted by the Council, and with the approval of the Council, appoint all department heads and officers of the City except those officers the power of appointment of whom is vested in the Council and as otherwise provided in this Charter;*

*2. Subject to the civil service rules and regulations adopted by the Council and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;*

*3. Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;*

*4. Prepare and submit to the Council at the end of the fiscal year a complete report of the finances and administrative activities of the City for the preceding fiscal year;*

*5. Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable;*

*6. Keep himself or herself informed of the activities of the several agencies, offices and departments of the City and see to the proper administration of their affairs and the efficient conduct of their business;*

*7. Be vigilant and active in causing all provisions of the law to be executed and enforced;*

*8. Perform all such duties as may be prescribed by this Charter or required of him or her by the Council, not inconsistent with this Charter;*

*9. Submit a monthly report to the Council covering significant activities of the city agencies, offices and departments under his or her supervision and any significant changes in administrative rules and procedures promulgated by him or her; and*

*10. Submit special reports in writing to the Council in answer to any requests for information filed with the City Manager by a member of the Council.*

*Sec. 3.040 Seat at Council table. The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote. The City Manager shall attend all regular and special meetings of the Council unless physically unable to do so or unless his or her absence has received prior approval by a majority of the Council.*

*Sec. 3.050 Absence, disability. To perform his or her duties during his or her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk one of the other officers or department heads of the City to serve as acting City Manager during such temporary absence or disability. Such designation shall be subject to change thereof by the Council. In the event of the failure of the City Manager to make*

*such a designation, the Council may by resolution appoint an officer or department head of the City to perform the duties of the City Manager until he or she shall be prepared to resume the duties of office.*

#### ARTICLE IV

##### OFFICERS AND EMPLOYEES

###### *Sec. 4.010 City administrative organization.*

*1. The Council may provide by ordinance not inconsistent with this Charter for the organization, conduct and operation of the several offices, departments and other agencies of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees.*

*2. The Council by ordinance may assign additional functions or duties to offices, departments or other agencies established by this Charter, but, except as otherwise provided in subsection 3, shall not discontinue or assign to any other office, department or other agency any function or duty assigned by this Charter to a particular office, department or agency. No office provided in this Charter, to be filled by appointment by the City Manager, shall be combined with an office provided in this Charter to be filled by appointment by the Council.*

*3. Notwithstanding the foregoing, the Council may transfer or consolidate functions of the city government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this Charter providing for the functions of the city government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.*

*4. Subject to the civil service rules and regulations adopted by the Council and section 3.020 of Article III, all officers and department heads of the City, except the City Attorney, Municipal Judge and the City Clerk, shall be appointed by the City Manager and shall thereafter serve at the pleasure of the City Manager.*

*5. Officers of the City appointed by the Council shall be required to reside within the city limits within 3 months of appointment. Employees of the City shall be required to live within a 50-mile radius of the City within 6 months of employment.*

###### *Sec. 4.020 Officers appointed by the Council.*

*1. In addition to the City Manager, the Council shall appoint the City Attorney and the Municipal Judge, if required pursuant to section 5.020 of Article V, who shall serve at the pleasure of the Council and may be*

*removed by motion of the Council adopted by the affirmative votes of at least four members of the Council.*

*2. Subject to the provisions of this Charter and rules and regulations adopted by the Council, the Council shall appoint the City Clerk who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of three members of the Council.*

*3. The appointments of city officers pursuant to subsections 1 and 2 shall be for indefinite terms, and each such officer shall receive such compensation and other benefits as may be determined by resolution of the Council from time to time.*

*4. Any city officer may be temporarily suspended with full pay at any time by a majority vote of the Council, but no city officer may be removed from office unless he or she has first been given an opportunity for a hearing before the Council, at his or her request, with not less than 7 days' prior notice of the time and place of the hearing. Such hearing may be either public or private, as requested by the officer, and at the hearing, the officer may be assisted by his or her own legal counsel. Any action of the Council following such hearing shall be considered final and conclusive. If a city officer is so removed, the Council will appoint a person as a temporary replacement to perform the duties of the removed officer, and will appoint a qualified person as a permanent replacement officer as soon as practicable.*

*5. No person shall be appointed as a city officer who is a grandparent, parent, uncle, aunt, brother, sister, nephew, niece, child or grandchild, by birth, marriage or adoption, of a city officer, employee or Council member at the time of appointment.*

*Sec. 4.030 City Clerk powers and duties. The City Clerk shall have the power and be required to:*

*1. Receive all documents addressed to the Council and present such documents to the Council.*

*2. Attend all meetings of the Council and its committees and be responsible for:*

*(a) Recording and maintaining an accurate journal of Council proceedings;*

*(b) Recording the ayes and noes in the final action upon the questions of granting franchises, making of contracts, approving of bills, disposing of or leasing city property, the passage or reconsideration of any ordinance, or upon any other act that involves the payment of money or the incurring of debt by the City; and*

*(c) Other duties as required upon the call of any member of the Council.*

*3. Maintain the journal of Council proceedings in books which shall bear appropriate titles and which shall be available for public inspection.*

*4. Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each thereof stating the same to be the original or a correct copy, and as*

*to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter, and maintain all such books properly indexed and available for public inspection when not in actual use.*

*5. Have charge of the repository for contracts, surety bonds, agreements, and other related documents of City business.*

*6. Maintain custody of the City seal.*

*7. Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and issue certified copies of official City records.*

*8. Conduct all City elections.*

*Sec. 4.040 City Attorney; qualifications, power and duties.*

*1. The City Attorney shall be an attorney at law duly licensed under the laws of the State of Nevada. He or she shall devote such time to the duties of his or her office as may be specified in the ordinance or resolution fixing the compensation of such office. If practicable, the Council shall appoint an attorney who has had special training or experience in municipal corporation law.*

*2. The City Attorney shall have the power and be required to:*

*(a) Represent and advise the Council and all city officers in all matters of law pertaining to their offices;*

*(b) Attend all meetings of the Council and give his or her advice or opinion in writing whenever requested to do so by the Council or by any of the officers and boards of the City;*

*(c) Prepare or approve all proposed ordinances and resolutions for the City, and amendments thereto;*

*(d) Prosecute on behalf of the people such criminal cases for violation of this Charter or city ordinances, and of misdemeanor offenses and infractions arising upon violations of the laws of the State as, in his or her opinion, that of the Council or of the City Manager, warrant his or her attention;*

*(e) Represent and appear for the City, any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of his or her official capacity, is concerned or is a party;*

*(f) Approve the form of all bonds given to, and all contracts made by, the City, endorsing his or her approval thereon in writing; and*

*(g) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.*

*3. The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.*

*Sec. 4.050 Director of Finance; qualifications, powers and duties.*

1. *The person appointed by the City Manager for the position of Director of Finance shall be qualified to administer and direct an integrated Department of Finance.*

2. *The Director of Finance shall have the power and be required to:*

(a) *Have charge of the administration of the financial affairs of the City under the direction of the City Manager.*

(b) *Supervise and be responsible for the disbursement of all money and have control over all expenditures to ensure that budget appropriations are not exceeded.*

(c) *Supervise a system of financial internal control including the auditing of all purchase orders before issuance, the auditing and approving before payment of all invoices, bills, payrolls, claims, demands or other charges against the City, and, with the advice of the City Attorney, when necessary, determining the regularity, legality and correctness of such charges.*

(d) *With the advice of the City Attorney, settle claims, demands or other charges, including the issuing of warrants therefor.*

(e) *Maintain general and cost accounting systems for the city government and each of its offices, departments and other agencies.*

(f) *Keep separate accounts for the items of appropriation contained in the city budget. Each account shall show the amount of appropriations, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance.*

(g) *Require reports of the receipts and disbursements from each receiving and expending agency of the city government to be made daily or at such intervals as he or she may deem expedient.*

(h) *Submit to the Council through the City Manager a monthly statement of all receipts and disbursements and other financial data in sufficient detail to show the exact financial condition of the City, and, as of the end of each fiscal year, submit a complete financial statement and report.*

(i) *Administer the license and business tax program of the City.*

(j) *Direct treasury administration for the City, including, without limitation:*

(1) *Receiving and collecting revenues and receipts from whatever source;*

(2) *Maintaining custody of all public funds belonging to or under the control of the City or any office, department or other agency of the city government; and*

(3) *Depositing all funds coming into his or her hands in such depository as may be designated by resolution of the Council, or, if no such resolution is adopted, by the City Manager, in compliance with all of the provisions of the Constitution and laws of this State governing the handling, depositing, and securing of public funds.*

*(k) Direct centralized purchasing and a property control system for the city government under rules and regulations to be prescribed by ordinance.*

*Sec. 4.060 Performance review. On or before the annual anniversary date of the appointment of persons serving in the positions of City Manager, City Attorney and City Clerk, the Council shall review and evaluate the performance of such appointees.*

*Sec. 4.070 Appointment powers of department heads. Subject to the approval of the City Manager and subject to civil service rules and regulations adopted by the Council, each head of a department, office or other agency shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the Council for his or her department, office or other agency.*

#### ARTICLE V

##### JUDICIAL

*Sec. 5.010 Municipal court. The municipal court must be presided over by the Justice of the Peace of Laughlin Township as ex officio municipal judge.*

*Sec. 5.020 Municipal judge appointed. If the Office of Justice of the Peace of Laughlin Township ceases to exist, the municipal court shall be presided over by a municipal judge appointed by the Council.*

#### ARTICLE VI

##### CITY BUDGETS

*Sec. 6.010 Budgets. Budgets for the City shall be prepared in accordance with and shall be governed by the provisions of the general laws of the State pertaining to budgets of cities.*

#### ARTICLE VII

##### PUBLIC IMPROVEMENTS AND REPAIRS

*Sec. 7.010 Expenses of improvements; payment by funds or by special assessments. The expenses of public improvements and repairs, such as the improvement of streets and alleys by grading, paving, graveling and curbing, the construction, repair, maintenance and preservation of sidewalks, drains, curbs, gutters, storm sewers, drainage systems, sewerage systems and sewerage disposal plants, may be paid from the General Fund or Street Fund or the cost or portion thereof as the Council shall determine, may be defrayed by special assessments upon lots and premises abutting upon that part of the street or alley so improved or proposed so to be, or the land abutting upon such improvement and such other lands as in the opinion of the Council may benefit by the improvement all in the manner contained in the provisions of the Nevada Revised Statutes.*

#### ARTICLE VIII

##### CITY ASSESSOR; TAX RECEIVER; FINANCES AND PURCHASING

*Sec. 8.010 Clark County Assessor to be ex officio City Assessor. The County Assessor of Clark County shall, in addition to the duties now imposed upon him or her by law, act as the Assessor of the City and shall be ex officio City Assessor, without further compensation. He or she shall*

*perform such duties as the Council may by ordinance prescribe with the County Assessor's consent.*

*Sec. 8.020 Clark County Treasurer to be ex officio City Tax Receiver. The County Treasurer of Clark County shall, in addition to the duties now imposed upon him or her by law, act as ex officio City Tax Receiver. He or she shall receive and safely keep all moneys that come to the City by taxation, and shall pay the same to the Director of Finance. The City Tax Receiver may, with the consent of the Council, collect special assessments which may be levied by authority of this Charter or city ordinance when they become due and payable, and whenever and wherever the general laws of the State of Nevada regarding the authorized acts of tax receivers may be, the same hereby are, made applicable to the City Tax Receiver of the City of Laughlin, in the collection of city special assessments.*

*Sec. 8.030 Procedures for city purchasing. All purchases of goods or services of every kind or description for the City by any office, commission, board, department or any division thereof shall be made in conformance with the Nevada Revised Statutes, as amended from time to time.*

*Sec. 8.040 Transfer of appropriations. The City Manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency.*

*Sec. 8.050 When contracts and expenditures prohibited.*

*1. No officer, department or agency shall, during any budget 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, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the City who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his or her office or employment.*

*2. Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.*

#### *ARTICLE IX*

##### *APPOINTIVE BOARDS AND COMMISSIONS*

*Sec. 9.010 Established; enumerated.*

*1. The Council may create by ordinance such other appointive boards or commissions as in its judgment are required and may grant to them powers and duties as are consistent with the provisions of this Charter. The Council, by motion adopted by the affirmative votes of at least a majority of its members, may appoint from time to time temporary committees as deemed advisable to render counsel and advice to the appointing*



*authorities on any designated matters or subjects within the jurisdiction of such authorities.*

*2. The Personnel Board is hereby established and has the powers and duties contained in this Article.*

*Sec. 9.020 Appointments, removals, vacancies, terms.*

*1. Except as otherwise specified in this Charter, the members of each of the appointive boards and commissions shall be appointed, and may be removed, by the Council, subject in both appointment and removal by the affirmative votes of a majority of the Council. For the purposes of this rule, residency is only required at the time of nomination.*

*2. If a member of a board or commission:*

*(a) Is absent from two regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes;*

*(b) Fails to attend at least one-half of the regular meetings of such board or commission within a calendar year;*

*(c) Is convicted of a crime involving moral turpitude; or*

*(d) Ceases to be a qualified elector of the City,*

*↳ the office of that member shall become vacant and shall be so declared by the Council.*

*3. Except as otherwise provided in subsection 2 or section 9.030, the members of such boards and commissions shall serve for a term of 2 years and until their respective successors are appointed and qualified.*

*Sec. 9.030 Prohibition against serving as treasurer for campaign committee. If any member of an appointive board or commission shall become the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member, his or her office shall become vacant and shall be so declared by the Council. Any provisions of this Article notwithstanding, no person who serves as the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member shall be eligible for appointment to any appointive board or commission.*

*Sec. 9.040 Appropriations therefor. The Council shall include in its annual budget such appropriations of funds as, in its opinion, shall be sufficient for the efficient and proper functioning of such appointive boards and commissions.*

*Sec. 9.050 Meetings; chair.*

*1. The election of each chair and vice chair shall be held at the meetings of the respective boards and commissions during the month of July of each year. The board or commission, in the event of a vacancy in the office of the chair or vice chair, shall elect one of its members for the unexpired term. The chair shall have the responsibility for informing the Council or board, commission or committee of actions or inactions and the reasons therefor.*

2. *Each board or commission, other than the Personnel Board, shall hold a regular meeting at least once a month with reasonable provision for attendance by the public. The City Manager shall designate a secretary for the recording of minutes for each such board and commission, who shall keep a record of its proceedings and transactions. Each board and commission shall prescribe rules and regulations governing its operations which shall be consistent with this Charter and shall be filed with the City Clerk for public inspection. The Personnel Board shall meet monthly, provided there is business on the agenda to come before it. In the event no business is placed on the Personnel Board's agenda 5 days preceding the tentative meeting date, no meeting need be held, provided that in no event shall more than 3 months intervene between meetings of the Personnel Board.*

*Sec. 9.060 Compensation. The members of appointive boards and commissions shall receive such compensation, if any, as may be prescribed by ordinance and may receive reimbursement for necessary traveling and other expenses when on official duty of the City when such expenditure has been so authorized by the board or commission and subject to rules and regulations prescribed by ordinance or order of the Council.*

*Sec. 9.070 Attendance of witnesses; oaths and affirmations. Each appointive board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of any such board or commission shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.*

*Sec. 9.080 Personnel Board: Membership. The Personnel Board shall consist of five members to be appointed by the Council from the qualified electors of the City. None of the members shall be removed from office without reasonable and sufficient cause, in accordance with procedures as provided by ordinance. None of the members shall hold public office or employment in the city government or be a candidate for any other public office or position, be an officer of any local, state or national partisan political club or organization, or while a member of the Personnel Board or for a period of 1 year after he or she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City.*

*Sec. 9.090 Personnel Board: Powers and duties. The Personnel Board shall have the power and be required to:*

1. *Hear appeals pertaining to the disciplinary suspension, demotion or dismissal of any officer or employee having permanent status in any office, position or employment in the civil service, and as otherwise provided for in the civil service rules and regulations;*

2. Consider matters that may be referred to it by the Council or the City Manager and render such counsel and advice in regard thereto as may be requested by the referring authorities;

3. By its own motion, make such studies and investigations as it may deem necessary for the review of civil service rules and regulations, or to determine the wisdom and efficacy of the rules, regulations, policies, plans and procedures dealing with civil service matters and report its findings and recommendations to the City Manager or the Council, or to both such authorities, as it may see fit; and

4. Conduct public hearings on proposed revisions of civil service rules and regulations in the manner as prescribed by ordinance and advise the Council of its findings in such matters within 60 days.

#### ARTICLE X CITY ELECTIONS

*Sec. 10.010 Applicability of state election laws. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the Council which are consistent with law and this Charter.*

*Sec. 10.020 Terms. All full terms of office in the Council are 4 years, and Council members and the Mayor must be elected at large without regard to precinct residency. Two full-term Council members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council members are to be elected in each year immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions.*

*Sec. 10.030 Specific Council positions. In the event a 2-year term position on the Council will be available at the time of a municipal election as provided in section 10.020, a candidate must file specifically for such a position. The candidate receiving the greatest respective number of votes must be declared elected to the available 2-year position.*

*Sec. 10.040 Primary municipal elections. A city primary election must be held on the first Tuesday after the first Monday in April of each odd-numbered year, and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.*

*Sec. 10.050 Primary not required. A primary election must not be held if not more than double the number of Council members to be elected file as candidates. A primary election must not be held for the Office of Mayor if not more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected.*

*Sec. 10.060 General election not required. If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the*

*vacancies and his or her name shall not be placed on the ballot for the general city election.*

*Sec. 10.070 Voters entitled to vote for each seat on ballot. In each primary and general election, voters shall be entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections.*

*Sec. 10.080 Council to control elections. The conduct of all municipal elections shall be under the control of the Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud.*

#### **ARTICLE XI**

##### **INITIATIVE, REFERENDUM AND RECALL**

*Sec. 11.010 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:*

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

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

*Sec. 11.020 Initiative and referendum proceedings. All initiative and referendum proceedings shall be conducted in conformance with the provisions of the Nevada Revised Statutes, as amended from time to time.*

*Sec. 11.030 Results of election.*

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

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

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

*Sec. 11.040 Repealing ordinances; publication. Initiative and referendum ordinances adopted or approved by the voters may be*

*published and shall not be amended or repealed by the Council, as in the case of other ordinances.*

*Sec. 11.050 Recall of Council members. As provided by the general laws of this State, every member of the Council is subject to recall from office.*

## **ARTICLE XII**

### **PUBLIC UTILITIES**

*Sec. 12.010 Granting of franchises.*

*1. The City shall have the power to grant a franchise to any private corporation for the use of streets and other public places in the furnishing of any public utility service to the City and to its inhabitants.*

*2. All franchises and any renewals, extensions and amendments thereto shall be granted only by ordinance. A proposed franchise ordinance shall be submitted to the City Manager, and he or she shall render to the Council a written report containing recommendations thereon.*

*3. The City shall have the power, as one of the conditions of granting any franchise, to impose a franchise tax, either for the purpose of license or for revenue.*

*Sec. 12.020 Conditions and transfer of franchises.*

*1. Every franchise or renewal, extension or amendment of a franchise hereafter granted shall:*

*(a) ~~Impose upon the utility the duty to furnish proper service at minimum attainable cost under proper organization and efficient management;~~*

*~~(b)~~ Include that the City may issue such orders with respect to safety and other matters as may be necessary or desirable for the community; and*

*~~(c)~~ (b) Reserve to the City the right to make all future regulations or ordinances deemed necessary for the preservation of the health, safety and public welfare of the City, including, without limitation, regulations concerning the imposition of uniform codes upon the utilities, standards and rules concerning the excavations and use to which the streets, alleys and public thoroughfares may be put and regulations concerning placement of easement improvements such as poles, valves, hydrants and the like.*

*2. No franchise shall be transferred hereafter by any utility to another without the approval of the Council, and as a condition to such approval, the successor in interest to the said franchise shall execute a written agreement containing a covenant that it will comply with all the terms and conditions of the franchise then in existence ~~, together with any other terms, conditions and regulations and ordinances which the City, or its agencies, may wish to impose.~~*

*Sec. 12.030 ~~Rates, annual cost of service and sliding scale basis. The Council shall enact proper ordinances and shall prosecute or cause to be prosecuted all appropriate proceedings before the Public Utilities Commission of Nevada to secure fair rates for consumers at large and for the City.~~*

~~Sec. 12.040 — Records and proceedings.~~

~~1. The Council shall establish or designate an agency of the city government which shall assemble the facts which are essential to the proper determination of cost of service and the fixing of reasonable rates. Such agency shall have and keep up to date an inventory of the property used in public service, the cost of such properties as actually and reasonably incurred or as fixed by appraisal additions and retirements made each year, the depreciation, and all matters that enter into the periodical readjustment of the rate base. It shall have power to make, and shall conduct, all inspections and examinations of public utility properties accounts and records necessary or appropriate to carry out the provisions of this Charter. At the close of each calendar or fiscal year, it shall make a comprehensive report and recommendations to the City Manager and the Council. Every public utility operating within the City shall furnish to such agency regular reports as to capital outlay, property retirements, operating revenues, operating expenses, taxes and other accounting matters according to the standard accounting classification issued for such utilities by the Public Utilities Commission of Nevada. In addition, the City may require reports regarding salaries, wages, employees, contracts, service performance and all other records of operation that pertain to proper rate adjustments on the basis of facts and regular administration.~~

~~2. The agency established or designated by the Council shall also make appropriate efforts to obtain proper annual revision of rates of private utilities which do not operate under the franchise terms of this Charter and which are not subject to municipal regulation by general law. It may initially obtain proper surveys of operating expenses, taxes and other charges and of the net capital investment in the properties used in public service within the City, and thereupon may endeavor, through negotiation with the utility, to obtain proper rate adjustments. If it cannot obtain due agreement, it shall file a complaint and petition with the Public Utilities Commission of Nevada for a formal rate inquiry. In such proceeding, it shall represent the consumers at large and shall prepare and present in legal form all the evidence with respect to cost of service and other elements as required in the public interest. It shall obtain all requisite data for successive rate revisions, and at the end of each calendar or fiscal year, it shall endeavor to secure any revision of rates indicated by the showing of facts, and, if necessary, shall proceed again with a request for formal inquiry by the Public Utilities Commission of Nevada.~~

~~Sec. 12.050] Condemnation.~~ **The City, by initiative ordinance, shall have the right to condemn the property of any public utility ~~[ ]~~ subject to the provisions of chapter 37 of NRS. The public utility shall receive just compensation for the taking of its property. Such an initiative petition must be voted on by the people and cannot be passed by simple acceptance of the Council.**

*Sec. ~~12.060~~ 12.040 Establishment of municipally owned and operated utilities.*

*1. The City shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed and to lease or purchase any existing utility properties used and useful in public service. ~~The City may also furnish service in adjacent and nearby communities which may be conveniently and economically served by the municipally owned and operated utility, subject to:~~*

*~~(a) Agreements with such communities;~~*

*~~(b) Provisions of state law; and~~*

*~~(c) Provisions of this Charter.]~~*

*2. The Council may provide by ordinance for the establishment of such utility, but an ordinance providing for a newly owned and operated utility shall be enacted only after such hearings and procedure as required herein for the granting of a franchise, and shall also be submitted to and approved at a popular referendum provided that an ordinance providing for any extension, enlargement or improvement of an existing utility may be enacted as a matter of general municipal administration.*

*3. The City shall have the power to execute long-term contracts for the purpose of augmenting the services of existing municipally owned utilities. Such contracts shall be passed only in the form of ordinances and may exceed in length the terms of office of the members of the Council.*

*Sec. ~~12.070~~ 12.050 Municipal utility organizations.*

*1. The Council may provide for the establishment of a separate department to administer the utility function, including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall keep separate financial and accounting records for each municipally owned and operated utility and before February 1 of each fiscal year, shall prepare for the City Manager, in accordance with his or her specifications, a comprehensive report of each utility. The responsible departments or officer shall endeavor to make each utility financially self-sustaining, unless the Council shall by ordinance adopt a different policy. All net profits derived from municipally owned and operated utilities may be expended in the discretion of the Council for general municipal purposes.*

*2. The rates for the products and services of any municipally owned and operated utility shall only be established, reduced, altered or increased by resolution of the Council following a public hearing.*

*Sec. ~~12.080~~ 12.060 Financial provisions.*

*1. The City may finance the acquisition of privately owned utility properties, the purchase of land and the cost of all construction and property installation for utility purposes by borrowing in accordance with the provisions of general law.*

*2. Appropriate provisions shall be made for the amortization and retirement of all bonds within a maximum period of 40 years. Such*

*amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility.*

*Sec. ~~12.000~~ 12.070 Sale of public utilities; proviso.*

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

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

### *ARTICLE XIII*

#### *MISCELLANEOUS PROVISIONS*

*Sec. 13.010 Removal of officers and employees. Subject to the provisions of this Charter not inconsistent herewith, any employee of the City may be suspended or dismissed from employment at any time by the City Manager or by any applicable person appointed by the City Manager pursuant to this Charter. Unless otherwise provided in this Charter, any such action shall be considered final and conclusive and shall not be subject to appeal to any city governmental entity.*

*Sec. 13.020 Right of City Manager and other officers of Council. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and the directors and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.*

*Sec. 13.030 Personal interest.*

*1. No elective or appointive officer shall take any official action on any contract or other matter in which he or she has any financial interest.*

*2. A violation of the provisions of this section shall constitute a misdemeanor, subject to a penalty not to exceed the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time of such violation.*



*Sec. 13.040 Official bonds. Officers or employees, as the Council may by general ordinance require so to do, including a municipal court judge appointed pursuant to section 5.020 of Article V, if any, shall give bond in such amount and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.*

*Sec. 13.050 Oath of office. Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to the official oath of office of the State of Nevada:*

*"I, ....., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any Ordinance, Resolution or Law of any State notwithstanding, and I will well and faithfully perform all the duties of the Office of ..... on which I am about to enter; (if any oath) so help me God; (if any affirmation) under the pains and penalties of perjury."*

*Sec. 13.060 Amending the Charter.*

*1. An amendment to this Charter:*

*(a) May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change. If a law is enacted which:*

*(1) Directly amends this Charter, such an amendment is not subject to public approval as provided in paragraph (b) and must be included in the Charter and identified as having been amended by the particular law involved.*

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

*(b) May be proposed by the Council and submitted to the registered voters of the City at a general city election or general state election.*

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

*2. The City Attorney shall draft any amendment proposed pursuant to subparagraph (2) of paragraph (a) or paragraph (b) of subsection 1, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.*

3. *The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to paragraph (c) of subsection 1, make only such corrections as are agreed to by the proposers and report to the Council his or her analysis of the significance and potential effects of the proposed amendment.*

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

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

6. *Any amendment to the Charter proposed under the provisions of this section shall be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment shall become effective.*

*Sec. 13.070 Short title; citation of City of Laughlin Act of 2011. This Charter shall be known and may be cited as the City of Laughlin Charter.*

*Sec. 13.080 Construction of Charter; separability of provisions.*

1. *Whenever any reference is made to any portion of the Nevada Revised Statutes or of any other law of the State or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.*

2. *If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of the section to which such holding shall directly apply.*

**Sec. 2.** Section 9 of the Fort Mohave Valley Development Law, being chapter 427, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1860, is hereby amended to read as follows:

Sec. 9. Limitations on use of money.

~~The~~

1. *Except as otherwise provided in subsection 2, the Board of County Commissioners may use money in the Fort Mohave Valley Development Fund only to:*

~~1-1~~ (a) Purchase or otherwise acquire lands described in sections 4 and 8 of this act; and

~~1-2~~ (b) Administer the Fort Mohave Valley Development Law exclusively for the purposes of developing the Fort Mohave Valley and any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley, including,

without limitation, the planning, design and construction of capital improvements which develop the land in the Fort Mohave Valley or in any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley.

**2. The Board of County Commissioners shall use money in the Fort Mohave Valley Development Fund to pay:**

*(a) Any costs incurred by the Committee on Local Government Finance created by NRS 354.105, for the preparation of the report related to the fiscal feasibility of the incorporation of the City of Laughlin that is required by section 4 of this act;*

*(b) Any costs incurred by the County to hold the elections described in sections 5 and 11 this act; and*

*(c) Any other costs incurred by the County or City of Laughlin associated with the incorporation of the City of Laughlin,*

*↳ to the extent that gifts, grants or donations are not available to pay for the expenses.*

**Sec. 3.** As used in sections 3 to 16, inclusive, of this act:

1. "Board of County Commissioners" means the Board of County Commissioners of Clark County.

2. "City" means the City of Laughlin.

3. "City Council" means the City Council elected pursuant to section 11 of this act.

4. "County" means the County of Clark.

5. "Fort Mohave Valley Development Fund" means the fund created in the County Treasury pursuant to section 6 of the Fort Mohave Valley Development Law.

6. "Qualified elector" means a person who is registered to vote in this State and is a resident of the area to be included in the City, as shown by the last official registration lists before the election.

**Sec. 4.** 1. On or before December 31, 2011, the Committee on Local Government Finance, created by NRS 354.105, shall prepare and submit a report to the Board of County Commissioners with respect to the fiscal feasibility of the incorporation of the City. This report must ~~be~~ **be:**

**(a) Include, without limitation analyses of:**

**(1) The tax revenue and other revenues of the County that may be impacted by the incorporation of the City.**

**(2) The tax revenue and other revenues of the Township of Laughlin compared to the potential tax revenue and other revenues of the City after incorporation.**

**(3) The expenditures made by the Township of Laughlin compared to the anticipated expenditures of the City after incorporation.**

**(4) The expenditures made by the County for support of the Township of Laughlin that may or may not be impacted by the incorporation of the City.**

(b) Be made available to the public for consideration before the election on the question of incorporation held pursuant to section 5 of this act.

2. The County Clerk shall cause the report to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. The final publication of the report must be published before the date of the ~~special~~ election ~~to~~ held pursuant to section 5 of this act.

**Sec. 5.** 1. An election on the question of incorporation of the City of Laughlin must be held after the Committee on Local Government Finance submits to the Board of County Commissioners the report required by section 4 of this act. The election will also be a primary election for the offices of Mayor and City Council.

2. The Board of County Commissioners may call a special election for the purposes of subsection 1, or may conduct an election pursuant to subsection 1 on the date of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act. The special election, if any, must be held within 90 days after the Board of County Commissioners receives the report prepared pursuant to section 4 of this act and conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

3. If the Board of County Commissioners calls a special election for the purposes of subsection 1, the County Clerk shall cause a notice of the election to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. The final publication of notice must be published before the date of the election.

4. If the Board of County Commissioners conducts an election pursuant to subsection 1 on the day of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act ~~to~~ ;

(a) The Board of County Commissioners shall submit the report required by section 4 of this act to the Legislative Commission. The Legislative Commission shall review the report and make a recommendation to the Board of County Commissioners as to whether the incorporation of the City is fiscally feasible.

(b) The County Clerk shall cause notice of the election to be published pursuant to NRS 293.203.

5. The notice of the election held pursuant to subsection 3 or 4 must contain:

- (a) The date of the election;
- (b) The hours during the day in which the polls will be open;
- (c) The location of the polling places;
- (d) A statement of the question in substantially the same form as it will appear on the ballots;
- (e) The names of the candidates; ~~and~~

(f) A list of the offices to which the candidates seek election ~~;~~ **and**

**(g) If the election is held pursuant to subsection 4, a summary of the recommendation made by the Legislative Commission pursuant to paragraph (a) of subsection 4.**

**Sec. 6.** The incorporation question on the ballots used for the election held pursuant to section 5 of this act must be in substantially the following form:

Shall the area described as.....(describe area) be incorporated as the City of Laughlin?

Yes

No

The voter shall mark the ballot by placing a cross (x) next to the word "yes" or "no."

**Sec. 7.** 1. A person who wishes to become a candidate for any office to be voted for at the election held pursuant to section 5 of this act must:

(a) Reside within the boundaries of the City;

(b) File an affidavit of candidacy, which must include a declaration of residency, with the County Clerk not later than the date for the filing of such affidavits as set by the County Clerk; and

(c) File a nomination petition containing at least 100 signatures of qualified electors.

2. Qualified electors may sign more than one nominating petition for candidates for the same office.

3. A candidate may withdraw his or her candidacy pursuant to the provisions of NRS 293.202.

4. If there are less than three candidates for any office to be filled at the primary election held pursuant to section 5 of this act, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election held pursuant to section 11 of this act.

5. The names of the two candidates for mayor and for each seat on the City Council who receive the highest number of votes in the primary election held pursuant to section 5 of this act must be placed on the ballot for the general election held pursuant to section 11 of this act.

**Sec. 8.** 1. At least 10 days before the election held pursuant to section 5 of this act, the County Clerk shall cause to be mailed to each qualified elector a sample ballot for his or her precinct with a notice informing the elector of the location of his or her polling place.

2. The sample ballot must:

(a) Include the question in the form required by section 6 of this act;

(b) Describe the area proposed to be incorporated by assessor's parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, a township, a section or any combination of these; and

(c) Include the names of candidates for the various offices as determined pursuant to section 7 of this act.

**Sec. 9.** 1. The Board of County Commissioners shall canvass the votes cast in the election held pursuant to section 5 of this act in the same manner as votes are canvassed in a general election. Upon completion of the canvass, the Board shall immediately notify the County Clerk of the results.

2. The County Clerk shall, upon receiving notice of the canvass from the Board of County Commissioners, immediately cause to be published a notice of the results of the election in a newspaper of general circulation in the County. If the incorporation is approved by the voters, the notice must include the category of the City according to population, as described in NRS 266.055. The County Clerk shall file a copy of the notice with the Secretary of State.

**Sec. 10.** 1. The Board of County Commissioners may accept gifts, grants and donations to pay for any expenses that are related to the incorporation of the City, including, without limitation:

(a) The costs incurred by the Committee on Local Government Finance for preparing the fiscal feasibility report required by section 4 of this act;

(b) The costs incurred by the County to hold the elections described in sections 5 and 11 of this act; and

(c) Any other costs incurred by the County or City associated with the incorporation of the City of Laughlin.

2. To the extent that gifts, grants and donations do not pay the costs of the expenses described in subsection 1, the Board of County Commissioners shall order the County Treasurer to pay such expenses from the Fort Mohave Valley Development Fund.

3. The County Clerk shall submit to the Board of County Commissioners a statement of all expenses related to conducting the elections held pursuant to sections 5 and 11 of this act.

**Sec. 11.** 1. If the incorporation of the City is approved by the voters at an election held pursuant to section 5 of this act, a general election must be held to elect four members of the City Council and the Mayor. The Board of County Commissioners may conduct a special election for the purposes of this subsection, or may conduct the election required by this subsection on the date of the first general election held in the County after the date of the election held pursuant to section 5 of this act. The election must be conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

2. The names of the two candidates for Mayor and for each particular seat on the City Council who receive the highest number of votes in the primary election must be placed on the ballot for the general election. A candidate for Mayor or a seat on the City Council may not withdraw from the general election.

**Sec. 12.** 1. The term of the Mayor elected pursuant to section 11 of this act expires upon the election and qualification of the person elected Mayor in the first general election held pursuant to section 10.020 of the City of Laughlin Charter.

2. The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the first general election held pursuant to section 10.020 of the City of Laughlin Charter. The terms of the remaining members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the second general election held pursuant to section 10.020 of the City of Laughlin Charter.

3. The members of the City Council elected pursuant to section 11 of this act shall, at the first meeting of the City Council after their election and qualification, draw lots to determine the length of their respective terms.

**Sec. 13.** Before the incorporation of the City becomes effective, ~~it~~ **but after the general election held pursuant to section 11 of this act,** the City Council may:

1. Prepare and adopt a budget;
2. ~~Adopt~~ **Prepare and adopt** ordinances;
3. ~~Levy~~ **Prepare to levy** an ad valorem tax on property within the area of the City, at the time and in the amount prescribed by law for cities, for the fiscal year beginning on the date the incorporation of the City becomes effective;
4. Negotiate **and prepare** an equitable apportionment of the fixed assets of the County pursuant to section 15 of this act;
5. Negotiate **and prepare** contracts for the employment of personnel;
6. Negotiate **and prepare** contracts to provide services for the City, including, without limitation, those services provided for by chapter 277 of NRS; ~~and~~
7. Negotiate **and prepare** contracts for the purchase of equipment, materials and supplies; ~~it~~;

**8. Negotiate and prepare contracts or memorandums of understanding with the County for the City to provide services to unincorporated areas of the County that are contiguous to the City;**

**9. Negotiate and prepare a cooperative agreement pursuant to NRS 360.730; and**

**10. Communicate with and provide information to the Department of Taxation to effectuate the allocation of tax revenues on the date the incorporation of the City becomes effective.**

**Sec. 14.** 1. During the period from the filing of the notice of results of the election conducted pursuant to section 5 of this act by the County Clerk until the date the incorporation of the City becomes effective, the County is entitled to receive the taxes and other revenue from the City and shall continue to provide services to the City.

2. Except as otherwise provided in NRS 318.492, all special districts, except fire protection districts, located within the boundaries of the City continue to exist within the City after the incorporation becomes effective.

**Sec. 15.** 1. The City Council and the Board of County Commissioners shall, before the date that the incorporation becomes effective or within 90 days after that date, equitably apportion those fixed assets of the County which are located within the boundaries of the City. The City Council and the Board of County Commissioners shall consider the location, use and types of assets in determining an equitable apportionment between the County and the City.

2. Any real property and its appurtenances located within the City and not required for the efficient operation of the County's duties must first be applied toward the City's share of the assets of the County. Any real property which is required by the County for the efficient operation of its duties must not be transferred to the City.

3. If an agreement to apportion the assets of the County is not reached within 90 days after the incorporation of the City, the matter may be submitted to arbitration upon the motion of either party.

4. Any appeal of the arbitration award must be filed with the district court within 30 days after the award is granted.

**Sec. 16.** Any property located within the City which was assessed and taxed by the County before incorporation must continue to be assessed and taxed to pay for the indebtedness incurred by the County before incorporation.

**Sec. 17.** 1. This section and sections 2 to 16, inclusive, of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective, if the incorporation of the City of Laughlin is approved by the voters at the election held pursuant to section 5 of this act on July 1, 2013.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy

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

Amendment No. 190 to Senate Bill No. 262 provides that the report required in Section 4 of the bill include determinations regarding the allocation of Laughlin Township revenues including, but not limited to, the consolidated tax and other revenues currently received by the County and the Township.

It sets forth the circumstances under which the report must be submitted to and reviewed by the Legislative Commission.

The amendment adds language clarifying the timing of actions that can be taken by the City Council before the incorporation becomes effective. Such actions would include the preparation of a budget, ordinances, agreements, and certain contracts.

It deletes provisions in the proposed Charter to ensure that existing franchise agreements with utilities will remain unchanged as a result of the incorporation of Laughlin, and provides in the proposed Charter that future annexations of property must not occur unless a majority of owners of the real property to be annexed petition the City Council for annexation into the city.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 268.

Bill read second time.



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

Amendment No. 188.

"SUMMARY—Revises provisions relating to competing for public works by design professionals. (BDR 28-740)"

"AN ACT relating to public works; revising provisions relating to preferences when competing for contracts for certain public works projects; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, a contract for a public work involving a design-build team is awarded by a public body based on the application of certain criteria. A design-build team may qualify for a preference in bidding on such a contract if the contractor on the design-build team has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147, 338.1727, 408.3886)

**Section 1** of this bill allows a person who holds a certificate of registration to engage in the practice of architecture or landscape architecture or who holds a license as a professional engineer or professional land surveyor to qualify for a preference when competing for public works if the person has submitted proof to the appropriate licensing board that the person has paid certain taxes to the State for the past 5 years. **Sections 4 and 7** of this bill allow a design-build team to receive a preference in selection as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Sections 5 and 8** of this bill allow a design-build team that has been selected as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway to receive a preference in selection for a contract only if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Section 9** of this bill allows an architect, professional engineer or professional land surveyor to receive a preference in selection for certain public works if the architect, professional engineer or professional land surveyor possesses a certificate of eligibility to receive a preference when competing for public works.

Existing law provides that a public body which selects a design-build team as a finalist in the selection process for a contract for a public work must make public specified information concerning the design-build team and its selection. (NRS 338.1725) **Section 7** of this bill adds a similar requirement for the Department of Transportation to make public specified information concerning a design-build team and the selection of that design-build team as a finalist in the selection process for a contract for a project for the construction, reconstruction or improvement of a highway. **Section 3** of this bill requires that a public body must, after selecting but before entering into a contract with a design professional who is not a member of a design-build

team, transmit certain information concerning the selection of the design profession to the licensing board that regulates the design professional. That licensing board must post the information on its Internet website.

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

**Section 1.** Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The State Board of Architecture, Interior Design and Residential Design shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of architecture pursuant to the provisions of chapter 623 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of architecture in this State:**

**(a) Paid directly, on his or her own behalf:**

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for design or construction in this State, including, without limitation, design or construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony;~~ **the excise tax imposed upon an employer by NRS 363B.110 of not less than ~~(\$5,000)~~ \$1,500 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;**

~~‡ (2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax;‡ or~~

**(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of architecture that:**

**(1) Satisfies the requirements of NRS 623.350; and**

**(2) Possesses a certificate of eligibility to receive a preference when competing for public works.**

**2. The State Board of Landscape Architecture shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to the provisions of chapter 623A of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of**

registration to engage in the practice of landscape architecture in this State:

(a) ~~Paid directly, on his or her own behalf;†~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for design or construction in this State, including, without limitation, design or construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony;† the excise tax imposed upon an employer by NRS 363B.110 of not less than ~~[\$5,000]~~ \$1,500 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;†~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax;† or~~

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of landscape architecture that:

(1) Satisfies the requirements of NRS 623A.250; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

3. The State Board of Professional Engineers and Land Surveyors shall issue a certificate of eligibility to receive a preference when competing for public works to a professional engineer or professional land surveyor who is licensed pursuant to the provisions of chapter 625 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the professional engineer or professional land surveyor has, while licensed as a professional engineer or professional land surveyor in this State:

(a) ~~Paid directly, on his or her own behalf;†~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for design or construction in this State, including, without limitation, design or construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony;† the excise tax imposed upon an employer by NRS 363B.110 of not less than ~~[\$5,000]~~ \$1,500 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;†~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State~~

~~of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in engineering or land surveying that:

(1) Satisfies the requirements of NRS 625.407; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

4. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 1, paragraph (a) of subsection 2 and paragraph (a) of subsection 3, a person shall be deemed to have paid:

(a) ~~Sales and use taxes and governmental services taxes paid in this State.~~ The excise tax imposed upon an employer by NRS 363B.110 by an affiliate or parent company of the person, if the affiliate or parent company also satisfies the requirements of NRS 623.350, 623A.250 or 625.407, as applicable; and

(b) ~~Sales and use taxes paid in this State.~~ The excise tax imposed upon an employer by NRS 363B.110 by a joint venture in which the person is a participant, in proportion to the amount of interest the person has in the joint venture.

5. A design professional who has received a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 must, at the time for the renewal of his or her professional license or certificate of registration, as applicable, pursuant to chapter 623, 623A or 625 of NRS, submit to the applicable licensing board an affidavit from a certified public accountant setting forth that the design professional has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, as applicable, to maintain eligibility to hold such a certificate.

6. A design professional who fails to submit an affidavit to the applicable licensing board pursuant to subsection 5 ceases to be eligible to receive a preference when competing for public works unless the design professional reapplies for and receives a certificate of eligibility pursuant to subsection 1, 2 or 3, as applicable.

7. If a design professional holds more than one license or certificate of registration, the design professional must submit a separate application for each license or certificate of registration pursuant to which the design professional wishes to qualify for a preference when competing for public works. Upon issuance, the certificate of eligibility to receive a preference when competing for public works becomes part of the design professional's

*license or certificate of registration for which the design professional submitted the application.*

*8. If a design professional who applies to a licensing board for a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 submits false information to the licensing board regarding the required payment of taxes, the design professional is not eligible to receive a preference when competing for public works for a period of 5 years after the date on which the licensing board becomes aware of the submission of the false information.*

*9. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall adopt regulations and may assess reasonable fees relating to their respective certification of design professionals for a preference when competing for public works.*

*10. A person or entity who believes that a design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works may challenge the validity of the certificate by filing a written objection with the public body which selected, for the purpose of providing services for a public work, the design professional who holds the certificate. A written objection authorized pursuant to this subsection must:*

*(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works; and*

*(b) Be filed with the public body not later than 3 business days after:*

*(1) The date on which the public body makes available to the public pursuant to subsection 3 of NRS 338.1725 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 338.1725;*

*(2) The date on which the Department of Transportation makes available to the public pursuant to subsection 3 of NRS 408.3885 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 408.3885; or*

*(3) The date on which the licensing board which issued the certificate to the design professional posted on its Internet website the information required by subsection 3 of NRS 338.155, if the design professional is identified in that information as being selected for a contract governed by NRS 338.155.*

*11. If a public body receives a written objection pursuant to subsection 10, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating*

*evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the design professional qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.*

**Sec. 2.** NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.1699, inclusive; or
- (d) NRS 338.1711 to 338.1727, inclusive ~~††~~, **and section 1 of this act.**

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

**Sec. 3.** NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by

the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. ***A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional, whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.***

4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

**Sec. 4.** NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721; ~~and~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work ~~it~~; *and*

*(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.*

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~the rankings of the design-build teams who submitted preliminary proposals.~~ **Identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.**

**Sec. 5.** NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.



2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of **both** a certificate of eligibility to receive a preference in bidding on public works **by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team**, and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to **a** preference in bidding on public works ~~or~~ **or a preference when competing for public works**, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body, at a regularly scheduled meeting, shall:

(a) Select the final proposal, using the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected; or

(b) Reject all the final proposals.

7. If a public body selects a final proposal and awards a design-build contract pursuant to paragraph (a) of subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

**Sec. 6.** NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;

(b) Separate estimates of the costs of designing and constructing the project;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;

(d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 **and whose members who hold a certificate of registration to practice architecture or a license as a professional engineer and who hold a certificate of eligibility to receive a preference when competing for public works issued pursuant to section 1 of this act** should submit a copy of ~~the~~ **each** certificate of eligibility with its proposal; and

(f) A statement as to whether a ~~bidding~~ design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

**Sec. 7.** NRS 408.3885 is hereby amended to read as follows:

408.3885 1. The Department shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the Department does not receive at least three

preliminary proposals from design-build teams that the Department determines to be qualified pursuant to this section and NRS 408.3884, the Department may not contract with a design-build team for the design and construction of the project.

2. The Department shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 408.3884; ~~and~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team;

(4) The proposed plan of the design-build team to manage the design and construction of the project that sets forth in detail the ability of the design-build team to design and construct the project; and

(5) The degree to which the preliminary proposal is responsive to the requirements of the Department for the submittal of a preliminary proposal ~~††~~; *and*

*(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.*

3. *After the selection of finalists pursuant to this section, the Department shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~the rankings of the design-build teams who submitted preliminary proposals.~~ identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.*

Sec. 8. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of *both* a certificate of eligibility to receive a preference in bidding on public works *by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team*, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to *a preference in bidding on public works* ~~††~~ *or a preference when competing for public works*, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of

subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

**Sec. 9.** NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, *and section 1 of this act* and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed \$35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of this chapter or chapter 623 of NRS.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees. If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him or her, the public agency may terminate negotiations and select another engineer, land surveyor or architect. *Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a professional engineer, professional land surveyor or registered architect pursuant to this subsection, the public agency shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference when competing for public works. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.*

**Sec. 10.** The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

**Sec. 11.** This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
2. On October 1, 2011, for all other purposes.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 188 to Senate Bill No. 268 partially changes the eligibility criteria for the preference to specify that the design professional must have paid an excise tax, which is based on the sum of all wages, of not less than \$1,500 annually for five consecutive years, and deletes language that would have required the rankings of the design-build teams who submitted preliminary proposals be made public and instead requires that the identity of the finalists who received a preference in bidding or competing for the public work be made public.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 229.

"SUMMARY—Revises provisions governing certain acts by juveniles relating to the possession, transmission and distribution of certain sexual images. (BDR 15-10)"

"AN ACT relating to juveniles; prohibiting, under certain circumstances, a minor from using an electronic communication device to possess, transmit or distribute certain sexual images of a minor; clarifying the definition of "cyber-bullying" for the purposes of certain provisions relating to education; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law prohibits a person, under certain circumstances, from distributing to a minor material that is harmful to minors. Such material includes certain nude pictures of a person. If an adult violates these provisions, the adult is generally guilty of a misdemeanor. (NRS 201.265) If a minor violates these provisions, the minor may be adjudicated delinquent. (NRS 62B.330) Existing law also prohibits a person from committing certain acts regarding pornography involving minors. (NRS 200.700-200.760) If an adult violates these provisions, the adult is guilty of a felony and is subject to registration and community notification as a sex offender. (NRS 179D.010-179D.550) If a minor violates these provisions, the minor may be adjudicated delinquent and subject to registration and community notification as a juvenile sex offender. (Chapter 62F of NRS) This bill provides an alternative prohibition with alternative penalties for violating that alternative prohibition which can be applied to certain minors instead of the penalties in existing law. Thus, this bill preserves prosecutorial discretion in addressing this issue.



**Section 1** of this bill prohibits, under certain circumstances, a minor from using an electronic communication device, such as a cell phone, to possess, transmit or distribute a sexual image of himself or herself or of another minor. A minor who uses an electronic communication device to transmit or distribute a sexual image of himself or herself is considered a child in need of supervision for the purposes of the laws governing juvenile justice. ~~It~~ **for the first violation, and is considered to have committed a delinquent act for a second or subsequent violation.** A minor who uses an electronic communication device to possess, ~~it~~ **a sexual image of another minor is considered a child in need of supervision, while a minor who uses an electronic communication device to** transmit or distribute a sexual image of another minor is considered to have committed a delinquent act. **Section 1** also provides that a minor who violates the provisions of **section 1** is not considered a sex offender and is not subject to registration or community notification as a juvenile sex offender or as a sex offender.

Existing law requires the Department of Education to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) **Section 4** of this bill revises the definition of "cyber-bullying" to clarify that the term includes the use of electronic communication to transmit or distribute a sexual image of a minor.

This revised definition of "cyber-bullying" also applies to certain other provisions related to education. Specifically, the term applies to existing law which requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for courses of study in computer education and technology. (NRS 389.520) Those standards must include a policy for the ethical, safe and secure use of computers and other electronic devices which includes methods to ensure the prevention of cyber-bullying. Further, the revised definition applies to existing law which prohibits a person from using any means of oral, written or electronic communication, including the use of cyber-bullying, to knowingly threaten to cause bodily harm or death to a pupil or school employee with the intent to: (1) intimidate, frighten, alarm or distress the pupil or school employee; (2) cause panic or civil unrest; or (3) interfere with the operation of a public school. (NRS 392.915)

WHEREAS, The Legislature has taken a strong stance with regard to protecting children from the harmful effects of child pornography and in doing so has enacted several statutes which impose severe penalties for persons who violate Nevada's child pornography laws; and

WHEREAS, Existing law provides that if an adult violates those child pornography laws, the adult is guilty of a felony and subject to registration and community notification as a sex offender; and

WHEREAS, Existing law also provides that if a child violates those child pornography laws, the child may be adjudicated delinquent and subject to registration and community notification as a juvenile sex offender; and

WHEREAS, The rapid advancement of new technology, such as cell phones with cameras, has created the unintended consequence of making it easy for children to violate these child pornography laws; and

WHEREAS, A significant number of children regularly use cellular phones and computers to communicate with their peers, and the act of sending such communications can be completed in a matter of seconds; and

WHEREAS, Some elements of popular culture aimed at children and young adults glamorize and urge others to engage in the act commonly referred to as "sexting," the act of sending or posting sexual images of oneself or another via a computer, cellular phone or other electronic device; and

WHEREAS, An increasing number of children use such technology to engage in the act of sexting; and

WHEREAS, Children often act without fully contemplating the potential grave consequences of their actions, including, without limitation, the serious penalties imposed for violating child pornography laws, the requirement to register as a sex offender for violating such laws, the negative effect on relationships, the loss of educational and employment opportunities, the use of such materials in bullying and cyber-bullying, and the distribution of such materials on the Internet to a worldwide audience; and

WHEREAS, It is important to educate children about the serious consequences of engaging in sexting and to provide an effective and measured response to children who engage in such behavior without imposing penalties on these children which will severely, negatively and, in many cases, permanently alter these children's lives; now, therefore,

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

**Section 1.** Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A minor shall not knowingly and willfully use an electronic communication device to transmit or distribute a sexual image of himself or herself to another person.*

*2. A minor shall not knowingly and willfully use an electronic communication device to transmit or distribute a sexual image of another minor who is older than, the same age as or not more than 4 years younger than the minor transmitting the sexual image.*

*3. A minor shall not knowingly and willfully possess a sexual image that was transmitted or distributed as described in subsection 1 or 2 if the minor who is the subject of the sexual image is older than, the same age as or not more than 4 years younger than the minor who possesses the sexual image. It is an affirmative defense to a violation charged pursuant to this subsection if the minor who possesses a sexual image:*

(a) Did not knowingly purchase, procure, solicit or request the sexual image or take any other action to cause the sexual image to come into his or her possession; and

(b) Promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency ~~or~~ or a school official, to access any sexual image:

(1) Took reasonable steps to destroy each image; or

(2) Reported the matter to a law enforcement agency or a school official and gave ~~the~~ the law enforcement agency or school official access to each image.

4. A minor who violates subsection 1:

(a) For the first violation:

(1) Is a child in need of supervision, as that term is used in title 5 of NRS, and is not a delinquent child; and

(2) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

(b) For the second or a subsequent violation:

(1) Commits a delinquent act, and the court may order the detention of the minor in the same manner as if the minor had committed an act that would have been a misdemeanor if committed by an adult; and

(2) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

5. A minor who violates subsection 2: ~~for 3:~~

(a) Commits a delinquent act, and the court may order the detention of the minor in the same manner as if the minor had committed an act that would have been a misdemeanor if committed by an adult; and

(b) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

6. A minor who violates subsection 3:

(a) Is a child in need of supervision, as that term is used in title 5 of NRS, and is not a delinquent child; and

(b) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

7. As used in this section:

(a) "Electronic communication device" means any electronic device that is capable of transmitting or distributing a sexual image, including,

*without limitation, a cellular phone, personal digital assistant, computer, computer network and computer system.*

*(b) "Minor" means a person who is under 18 years of age.*

*(c) "School official" means a principal, vice principal, school counselor or school police officer.*

*(d) "Sexual conduct" has the meaning ascribed to it in NRS 200.700.*

~~##~~ *(e) "Sexual image" means any visual depiction, including, without limitation, any photograph or video, of a minor simulating or engaging in sexual conduct or of a minor as the subject of a sexual portrayal.*

~~##~~ *(f) "Sexual portrayal" has the meaning ascribed to it in NRS 200.700.*

**Sec. 2.** NRS 200.740 is hereby amended to read as follows:

200.740 For the purposes of NRS 200.710 to 200.735, inclusive, **and section 1 of this act**, to determine whether a person was a minor, the court or jury may:

1. Inspect the person in question;
2. View the performance;
3. Consider the opinion of a witness to the performance regarding the person's age;
4. Consider the opinion of a medical expert who viewed the performance; or
5. Use any other method authorized by the rules of evidence at common law.

**Sec. 3.** NRS 62B.320 is hereby amended to read as follows:

62B.320 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is alleged or adjudicated to be in need of supervision because the child:

(a) Is subject to compulsory school attendance and is a habitual truant from school;

(b) Habitually disobeys the reasonable and lawful demands of the parent or guardian of the child and is unmanageable; ~~or~~

(c) Deserts, abandons or runs away from the home or usual place of abode of the child and is in need of care or rehabilitation ~~or~~; **or**

*(d) Uses an electronic communication device to transmit or distribute a sexual image of himself or herself to another person or to possess a sexual image in violation of section 1 of this act.*

2. A child who is subject to the jurisdiction of the juvenile court pursuant to this section must not be considered a delinquent child.

**3. As used in this section:**

*(a) "Electronic communication device" has the meaning ascribed to it in section 1 of this act.*

*(b) "Sexual image" has the meaning ascribed to it in section 1 of this act.*

**Sec. 4.** NRS 388.123 is hereby amended to read as follows:

388.123 "Cyber-bullying" means bullying through the use of electronic communication. *The term includes the use of electronic communication to transmit or distribute a sexual image of a minor. As used in this section, "sexual image" has the meaning ascribed to it in section 1 of this act.*

**Sec. 5.** This act becomes effective on July 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment provides that a minor who transmits an image of himself or herself is a minor in need of supervision for the first offense and is considered a delinquent for a second or subsequent offense. Additionally, a minor who possesses a sexual image of another minor is considered a child in need of supervision, but if that image is transmitted or distributed, the minor commits a delinquent act.

The amendment also adds "school official" as an authority to whom a minor may report such an image.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 309.

Bill read second time and ordered to third reading.

Senate Bill No. 361.

Bill read second time.

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

Amendment No. 187.

"SUMMARY—Authorizes the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in certain areas. (BDR 48-285)"

"AN ACT relating to water; authorizing the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in certain areas; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Section 1** of this bill authorizes a person to apply to the State Engineer for the issuance of a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire in an area. Unless extended by the State Engineer, the duration of such a temporary permit is limited to ~~one growing season of the vegetative cover.~~ **1 year.** **Section 2** of this bill declares the use of water to prevent or reduce the impact of wildfires or to rehabilitate areas burned by wildfires as a policy of the State.

**Sections 3-7** of this bill exempt an application for such a temporary permit from several requirements in existing law for applications for permits concerning water rights, including publication of notice of the application in a newspaper and authorization for the filing of protests against the granting of the application. This expedited process is similar to the process for the

issuance of environmental permits by the State Engineer. (NRS 533.437-533.4377)

**Section 8** of this bill requires the State Forester Firewarden, upon the request of the State Engineer, to review the plan for establishing the vegetative cover that is required to be submitted by the applicant for the temporary permit.

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

**Section 1.** Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A person may apply for a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire in an area.*

*2. In addition to the information required by NRS 533.335, an applicant for a temporary permit shall submit to the State Engineer:*

*(a) A plan for establishing vegetative cover that is resistant to fire in the area;*

*(b) Any other information which is necessary for a full understanding of the necessity of the appropriation; and*

*(c) For:*

*(1) Examining and filing the application for the temporary permit, \$150.*

*(2) Issuing and recording the temporary permit, \$200.*

*3. The State Engineer may forward a plan submitted pursuant to subsection 2 to the State Forester Firewarden for his or her review and comments.*

*4. The State Engineer shall approve an application for a temporary permit if:*

*(a) The application is accompanied by the prescribed fees;*

*(b) The appropriation is in the public interest; and*

*(c) The appropriation does not impair water rights held by other persons.*

*5. A temporary permit issued pursuant to this section must not exceed 1 year in duration, ~~one growing season for the vegetative cover~~ but may be extended by the State Engineer in increments not to exceed ~~one growing season~~ 1 year in duration.*

**Sec. 2.** NRS 533.024 is hereby amended to read as follows:

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect

their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

***(d) To encourage and promote the use of water to prevent or reduce the spread of wildfire or to rehabilitate areas burned by wildfire, including, without limitation, through the establishment of vegetative cover that is resistant to fire.***

2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.

**Sec. 3.** NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection 5 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general circulation and printed and published in the county where the water is sought to be appropriated, a notice of the application which sets forth:

- (a) That the application has been filed.
- (b) The date of the filing.
- (c) The name and address of the applicant.
- (d) The name of the source from which the appropriation is to be made.
- (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.
- (f) The purpose for which the water is to be appropriated.

↪ The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication. The State Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

- (a) For municipal, quasi-municipal or industrial use; and
- (b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

↪ the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of the proposed well, to the owner's address as shown in the latest records of the

county assessor. If there are not more than six such wells, notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the State Engineer before the State Engineer may consider the application.

4. The provisions of this section do not apply to an environmental permit ~~+~~ **or a temporary permit issued pursuant to section 1 of this act.**

**Sec. 4.** NRS 533.363 is hereby amended to read as follows:

533.363 1. Except as otherwise provided in subsection 2, if water for which a permit is requested is to be used in a county other than that county in which it is to be appropriated, or is to be diverted from or used in a different county than that in which it is currently being diverted or used, then the State Engineer shall give notice of the receipt of the request for the permit to:

(a) The board of county commissioners of the county in which the water for which the permit is requested will be appropriated or is currently being diverted or used; and

(b) The board of county commissioners of the county in which the water will be diverted or used.

2. The provisions of subsection 1 do not apply:

(a) To an environmental permit ~~+~~ **or a temporary permit issued pursuant to section 1 of this act.**

(b) If:

(1) The water is to be appropriated and used; or

(2) Both the current and requested place of diversion or use of the water are,

↳ within a single, contiguous parcel of real property.

3. A person who requests a permit to which the provisions of subsection 1 apply shall submit to each appropriate board of county commissioners a copy of the application and any information relevant to the request.

4. Each board of county commissioners which is notified of a request for a permit pursuant to this section shall consider the request at the next regular or special meeting of the board held not earlier than 3 weeks after the notice is received. The board shall provide public notice of the meeting for 3 consecutive weeks in a newspaper of general circulation in its county. The notice must state the time, place and purpose of the meeting. At the conclusion of the meeting the board may recommend a course of action to the State Engineer, but the recommendation is not binding on the State Engineer.

**Sec. 5.** NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:



- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and
- (c) The applicant provides proof satisfactory to the State Engineer of the applicant's:
  - (1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and
  - (2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and 11 and NRS 533.365, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

- (a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.
- (b) Postpone action if the purpose for which the application was made is municipal use.
- (c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 11, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

- (a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.
- (b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection 11, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectable interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove

detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. If:

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

↪ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who is a successor in interest to a protestant or an affected water right owner who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if the successor in interest were the former owner whose interest he or she succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer on a form provided by the State Engineer.

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit ~~+~~ **or a temporary permit issued pursuant to section 1 of this act.**

12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

13. As used in this section:

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.

**Sec. 6.** NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in an endorsement of approval upon any application, the State Engineer shall:

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

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

under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

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

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

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,

↪ must not be less than 5 years.

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

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

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

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

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

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

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

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

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

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

(e) The period contemplated in the:

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

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

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

5. The provisions of subsections 1 and 4 do not apply to an environmental permit ~~+~~ **or a temporary permit issued pursuant to section 1 of this act.**

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is composed of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

**Sec. 7.** NRS 533.400 is hereby amended to read as follows:

533.400 1. Except as otherwise provided in subsection 2, on or before the date set in the endorsement of a permit for the application of water to beneficial use, or on the date set by the State Engineer under a proper application for extension therefor, any person holding a permit from the State Engineer to appropriate the public waters of the State of Nevada, to change the place of diversion or the manner or place of use, shall file with the State Engineer a statement under oath, on a form prescribed by the State Engineer. The statement must include:

(a) The name and post office address of the person making the proof.

(b) The number and date of the permit for which proof is made.

(c) The source of the water supply.

(d) The name of the canal or other works by which the water is conducted to the place of use.

(e) The name of the original person to whom the permit was issued.

(f) The purpose for which the water is used.

(g) If for irrigation, the actual number of acres of land upon which the water granted in the permit has been beneficially used, giving the same by 40-acre legal subdivisions when possible.

(h) An actual measurement taken by a licensed state water right surveyor or an official or employee of the Office of the State Engineer of the water diverted for beneficial use.

(i) The capacity of the works of diversion.

(j) If for power, the dimensions and capacity of the flume, pipe, ditch or other conduit.

(k) The average grade and difference in elevation between the termini of any conduit.

(l) The number of months, naming them, in which water has been beneficially used.

(m) The amount of water beneficially used, taken from actual measurements, together with such other data as the State Engineer may require to become acquainted with the amount of the appropriation for which the proof is filed.

2. The provisions of subsection 1 do not apply to a person holding an environmental permit ~~†~~ **or a temporary permit issued pursuant to section 1 of this act.**

**Sec. 8.** NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the

management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

***(l) Upon the request of the State Engineer, review a plan submitted with an application for the issuance of a temporary permit pursuant to section 1 of this act.***

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrol officers, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

**Sec. 9.** This act becomes effective upon passage and approval.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 187 to Senate Bill No. 361 makes a technical change at the request of the State Engineer to adjust the duration of the temporary permit authorized under the bill from one growing season to one year.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 375.

Bill read second time.

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

Amendment No. 150.

"SUMMARY—Authorizes counties and cities to create renewable energy corridors. (BDR 20-18)"

"AN ACT relating to renewable energy corridors; authorizing the governing bodies of cities and counties to create renewable energy corridors; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Section 1** of this bill authorizes a board of county commissioners to create one or more renewable energy corridors within the unincorporated areas of the county, to enter into one or more cooperative agreements with other local governments for the purpose of creating a regional renewable energy corridor and to offer certain incentives for participation in a renewable energy corridor.

**Section 2** of this bill authorizes the governing body of a city to create one or more renewable energy corridors within the boundaries of the city, to enter into one or more cooperative agreements with other local governments for the purpose of creating a regional renewable energy corridor and to offer certain incentives for participation in a renewable energy corridor.

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

**Section 1.** Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

**1.** *A board of county commissioners may by ordinance create one or more renewable energy corridors within the unincorporated areas of the county.*

**2.** ~~1.4~~ *Except as otherwise provided in subsection 3, a board of county commissioners may offer incentives for participation in a renewable energy corridor, including without limitation, abatement or partial abatement of*



any taxes that the county may lawfully impose, to any person or business located within the renewable energy corridor ~~¶~~

3. If the board of county commissioners determines that a person or business has been granted, or has an active application for, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive, the person or business may not be granted an abatement or partial abatement of taxes pursuant to this section.

4. A person or business that is granted an abatement or partial abatement of taxes pursuant to this section may not apply for, or be granted, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive.

~~¶~~ 5. A board of county commissioners may enter into one or more cooperative agreements with the governing body of any incorporated city located within the county or the governing body of any contiguous county for the purpose of creating a regional renewable energy corridor. Any such cooperative agreement must set forth the powers and duties of each participating city or county.

~~¶~~ 6. As used in this section, "renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (a) Biomass;
- (b) Fuel cells;
- (c) Geothermal energy;
- (d) Solar energy;
- (e) Waterpower; and
- (f) Wind.

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 2. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may by ordinance create one or more renewable energy corridors within the boundaries of the city.

2. ~~¶~~ Except as otherwise provided in subsection 3, the governing body of a city may offer incentives for participation in a renewable energy corridor, including without limitation, abatement or partial abatement of any taxes that the city may lawfully impose, to any person or business located within the renewable energy corridor ~~¶~~

3. If the governing body of a city determines that a person or business has been granted, or has an active application for, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive, the person or business may not be

granted an abatement or partial abatement of taxes pursuant to this section.

4. A person or business that is granted an abatement or partial abatement of taxes pursuant to this section may not apply for, or be granted, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive.

~~3.7~~ 5. A governing body of a city may enter into one or more cooperative agreements with the board of county commissioners of the county in which the city is located or the governing body of any contiguous city for the purpose of creating a regional renewable energy corridor. Any such cooperative agreement must set forth the powers and duties of each participating city or county.

~~4.4~~ 6. As used in this section, "renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (a) Biomass;
- (b) Fuel cells;
- (c) Geothermal energy;
- (d) Solar energy;
- (e) Waterpower; and
- (f) Wind.

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 3. This act becomes effective on July 1, 2011.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 150 to Senate Bill No. 375 prohibits a city or county from offering any incentives or abatements to a person or business for participation in a renewable energy corridor if the person or business has already received or is applying for any other incentive or abatement from any local government or from the State. In addition, a person granted an incentive or abatement for a renewable energy corridor may not apply for or seek an additional abatement or incentive.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 376.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 164.

"SUMMARY—Increases the penalty for certain technological crimes.  
(BDR 15-1000)"

"AN ACT relating to crimes; increasing the penalty for certain technological crimes; providing penalties; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law makes it a misdemeanor to commit certain acts that: (1) interfere with or deny access to or use of a computer, system or network; and (2) relate to the use or access of a computer, system, network, telecommunications device, telecommunications service or information service. (NRS 205.477) Under existing law, a misdemeanor is punishable by imprisonment in the county jail for a term of not more than 6 months, or a fine of up to \$1,000, or both. (NRS 193.150) This bill increases the penalty for engaging in such acts from a misdemeanor to a category E felony which is punishable by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years and the court may also impose a fine of not more than \$5,000. For this category of felony, the court is required to grant probation except in certain circumstances.

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

**Section 1.** NRS 205.477 is hereby amended to read as follows:

205.477 1. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully and without authorization interferes with, denies or causes the denial of access to or use of a computer, system or network to a person who has the duty and right to use it is guilty of a ~~misdemeanor~~ **category E felony and shall be punished as provided in NRS 193.130.**

2. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully and without authorization uses, causes the use of, accesses, attempts to gain access to or causes access to be gained to a computer, system, network, telecommunications device, telecommunications service or information service is guilty of a ~~misdemeanor~~ **category E felony and shall be punished as provided in NRS 193.130.**

3. If the violation of any provision of this section:

(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;

(b) Caused or attempted to cause response costs, loss, injury or other damage in excess of \$500; or

(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity,

↪ the person is guilty of a category C felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.

4. It is an affirmative defense to a charge made pursuant to this section that at the time of the alleged offense the defendant reasonably believed that:

(a) The defendant was authorized to use or access the computer, system, network, telecommunications device, telecommunications service or information service and such use or access by the defendant was within the scope of that authorization; or

(b) The owner or other person authorized to give consent would authorize the defendant to use or access the computer, system, network, telecommunications device, telecommunications service or information service.

5. A defendant who intends to offer an affirmative defense described in subsection 4 at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

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

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Existing law provides that a person is guilty of a category C felony if that person interferes with or gains access to someone else's computer or telecommunications device, and that interference or access caused a financial impact to the victim of \$500.

This amendment includes any attempt to cause a financial impact in excess of at least \$500.

The amendment also changes the effective date to upon passage and approval

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 392.

Bill read second time and ordered to third reading.

Senate Bill No. 393.

Bill read second time.

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

Amendment No. 203.

"SUMMARY—Revises provisions relating to annexation of territory by certain unincorporated towns. (BDR 20-228)"

"AN ACT relating to unincorporated towns; providing for the extension of the debts, laws, ordinances, regulations and municipal taxes of an unincorporated town to any territory annexed by the unincorporated town; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, when a city in a county whose population is ~~400,000~~ **700,000** or more (currently Clark County) annexes territory, that territory and its inhabitants and property become subject to the debts, laws, ordinances and regulations of the city and are entitled to the same privileges and benefits as other parts of the city. Additionally, the territory is subject to the municipal

taxes of the city levied for the fiscal year following the date of annexation. (NRS 268.598)

This bill establishes the same provisions for an unincorporated town that annexes territory in a county whose population is ~~400,000~~ **700,000** or more.

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

**Section 1.** Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

***In a county whose population is ~~400,000~~ 700,000 or more, from and after the effective date of the annexation of territory by an unincorporated town, the territory annexed and its inhabitants and property are subject to all debts, laws, ordinances and regulations in force in the annexing unincorporated town and are entitled to the same privileges and benefits as other parts of the annexing unincorporated town. The newly annexed territory is subject to municipal taxes levied by the annexing unincorporated town for the fiscal year following the effective date of annexation.***

**Sec. 2.** This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 203 to Senate Bill No. 393 clarifies that the "municipal taxes" referred to in Senate Bill No. 393 are those associated only with the annexing unincorporated town. It makes the standard technical correction to the new population threshold for Clark County which in the future, on new legislation, will not be 400,000; it will now be a 700,000 population threshold.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 402.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 181.

"SUMMARY—Revises provisions relating to real property. (BDR 9-1090)"

"AN ACT relating to real property; revising provisions relating to covenants that may be adopted by reference in a deed of trust; providing methods by which assumption fees for a change of parties in a deed of trust may be set; requiring a foreclosure sale of commercial property to be held in a location specified in certain recorded documents; **limiting the amount of certain secured interests in foreclosure sales and deficiency judgments**; revising provisions relating to accounting for impound accounts for the payment of certain obligations relating to certain real property; providing a civil penalty; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Sections 1 and 2** of this bill amend a statutory covenant that may be adopted by reference in a deed of trust to allow the parties thereto the alternatives of paying, in connection with a trustee's sale, either reasonable counsel fees and actual costs incurred or counsel fees in an amount equal to a specified percentage of the property secured by the deed of trust.

**Section 3** of this bill sets forth certain methods of specifying assumption fees for a change in parties in a deed of trust.

**Section 4** of this bill requires a foreclosure sale of commercial property to be conducted at the location specified in the notice of sale recorded by the trustee of a trust deed or transfer in trust.

**Section 4.5 of this bill revises provisions limiting the amount of certain secured interests included in the term "indebtedness" for the purpose of foreclosure sales and deficiency judgments.**

**Sections 5 and 6** of this bill revise provisions relating to accountings for impound accounts for the payment of certain obligations relating to certain real property.

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

**Section 1.** NRS 107.030 is hereby amended to read as follows:

107.030 Every deed of trust made after March 29, 1927, may adopt by reference all or any of the following covenants, agreements, obligations, rights and remedies:

1. COVENANT NO. 1. That grantor agrees to pay and discharge at maturity all taxes and assessments and all other charges and encumbrances which now are or shall hereafter be, or appear to be, a lien upon the trust premises, or any part thereof; and that grantor will pay all interest or installments due on any prior encumbrance, and that in default thereof, beneficiary may, without demand or notice, pay the same, and beneficiary shall be sole judge of the legality or validity of such taxes, assessments, charges or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

2. COVENANT NO. 2. That the grantor will at all times keep the buildings and improvements which are now or shall hereafter be erected upon the premises insured against loss or damage by fire, to the amount of at least \$...., by some insurance company or companies approved by beneficiary, the policies for which insurance shall be made payable, in case of loss, to beneficiary, and shall be delivered to and held by the beneficiary as further security; and that in default thereof, beneficiary may procure such insurance, not exceeding the amount aforesaid, to be effected either upon the interest of trustee or upon the interest of grantor, or his or her assigns, and in their names, loss, if any, being made payable to beneficiary, and may pay and expend for premiums for such insurance such sums of money as the beneficiary may deem necessary.

3. COVENANT NO. 3. That if, during the existence of the trust, there be commenced or pending any suit or action affecting the conveyed premises, or any part thereof, or the title thereto, or if any adverse claim for or against the

premises, or any part thereof, be made or asserted, the trustee or beneficiary may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and may settle or compromise same or the adverse claim; and in that behalf and for any of the purposes may pay and expend such sums of money as the trustee or beneficiary may deem to be necessary.

4. COVENANT NO. 4. That the grantor will pay to trustee and to beneficiary respectively, on demand, the amounts of all sums of money which they shall respectively pay or expend pursuant to the provisions of the implied covenants of this section, or any of them, together with interest upon each of the amounts, until paid, from the time of payment thereof, at the rate of ..... percent per annum.

5. COVENANT NO. 5. That in case grantor shall well and truly perform the obligation or pay or cause to be paid at maturity the debt or promissory note, and all moneys agreed to be paid, and interest thereon for the security of which the transfer is made, and also the reasonable expenses of the trust in this section specified, then the trustee, its successors or assigns, shall reconvey to the grantor all the estate in the premises conveyed to the trustee by the grantor. Any part of the trust property may be reconveyed at the request of the beneficiary.

6. COVENANT NO. 6. That if default be made in the performance of the obligation, or in the payment of the debt, or interest thereon, or any part thereof, or in the payment of any of the other moneys agreed to be paid, or of any interest thereon, or if any of the conditions or covenants in this section adopted by reference be violated, and if the notice of breach and election to sell, required by this chapter, be first recorded, then trustee, its successors or assigns, on demand by beneficiary, or assigns, shall sell the above-granted premises, or such part thereof as in its discretion it shall find necessary to sell, in order to accomplish the objects of these trusts, in the manner following, namely:

The trustees shall first give notice of the time and place of such sale, in the manner provided in NRS 107.080 and may postpone such sale not more than three times by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale, and on the day of sale so advertised, or to which such sale may have been postponed, the trustee may sell the property so advertised, or any portion thereof, at public auction, at the time and place specified in the notice, at a public location in the county in which the property, or any part thereof, to be sold, is situated, to the highest cash bidder. The beneficiary, obligee, creditor, or the holder or holders of the promissory note or notes secured thereby may bid and purchase at such sale. The beneficiary may, after recording the notice of breach and election, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to the beneficiary's former position and have and enjoy the same rights as though such notice had not been recorded.

7. COVENANT NO. 7. That the trustee, upon such sale, shall make (without warranty), execute and, after due payment made, deliver to purchaser or purchasers, his, her or their heirs or assigns, a deed or deeds of the premises so sold which shall convey to the purchaser all the title of the grantor in the trust premises, and shall apply the proceeds of the sale thereof in payment, firstly, of the expenses of such sale, together with the reasonable expenses of the trust, including counsel fees, in an amount equal to ..... percent of the amount secured thereby and remaining unpaid ~~±~~ ***or reasonable counsel fees and costs actually incurred***, which shall become due upon any default made by grantor in any of the payments aforesaid; and also such sums, if any, as trustee or beneficiary shall have paid, for procuring a search of the title to the premises, or any part thereof, subsequent to the execution of the deed of trust; and in payment, secondly, of the obligation or debts secured, and interest thereon then remaining unpaid, and the amount of all other moneys with interest thereon herein agreed or provided to be paid by grantor; and the balance or surplus of such proceeds of sale it shall pay to grantor, his or her heirs, executors, administrators or assigns.

8. COVENANT NO. 8. That in the event of a sale of the premises conveyed or transferred in trust, or any part thereof, and the execution of a deed or deeds therefor under such trust, the recital therein of default, and of recording notice of breach and election of sale, and of the elapsing of the 3-month period, and of the giving of notice of sale, and of a demand by beneficiary, his or her heirs or assigns, that such sale should be made, shall be conclusive proof of such default, recording, election, elapsing of time, and of the due giving of such notice, and that the sale was regularly and validly made on due and proper demand by beneficiary, his or her heirs and assigns; and any such deed or deeds with such recitals therein shall be effectual and conclusive against grantor, his or her heirs and assigns, and all other persons; and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money, according to the trusts aforesaid.

9. COVENANT NO. 9. That the beneficiary or his or her assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by the deed of trust or other conveyance in trust. A copy of a resolution of the board of directors of beneficiary (if beneficiary be a corporation), certified by the secretary thereof, under its corporate seal, or an instrument executed and acknowledged by the beneficiary (if the beneficiary be a natural person), shall be conclusive proof of the proper appointment of such substituted trustee. Upon the recording of such certified copy or executed and acknowledged instrument, the new trustee or trustees shall be vested with all the title, interest, powers, duties and trusts in the premises vested in or conferred upon the original trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the beneficiary, and all of the trustee's acts thereunder shall be deemed to be the acts of all



trustees, and the recital in any conveyance executed by such sole trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act.

**Sec. 2.** NRS 107.040 is hereby amended to read as follows:

107.040 1. In order to adopt by reference any of the covenants, agreements, obligations, rights and remedies in NRS 107.030, it shall only be necessary to state in the deed of trust the following: "The following covenants, Nos. ...., ..... and ..... (inserting the respective numbers) of NRS 107.030 are hereby adopted and made a part of this deed of trust."

2. A deed of trust or other conveyance in trust, in order to fix the amount of insurance to be carried, need not reincorporate the provisions of Covenant No. 2 of NRS 107.030, but may merely state the following: "Covenant No. 2," and set out thereafter the amount of insurance to be carried.

3. In order to fix the rate of interest under Covenant No. 4 of NRS 107.030, it shall only be necessary to state in such trust deed or other conveyance in trust, "Covenant No. 4," and set out thereafter the rate of interest to be charged thereunder.

4. In order to fix the amount or percent of counsel fees under Covenant No. 7 of NRS 107.030, it shall only be necessary to state in such deed of trust, or other conveyance in trust, the following: "Covenant No. 7," and set out thereafter *either* the percentage to be allowed ~~††~~ **or, in lieu of the percentage to be allowed, reasonable counsel fees and costs actually incurred.**

**Sec. 3.** NRS 107.055 is hereby amended to read as follows:

107.055 If a party to a deed of trust, executed after July 1, 1971, desires to charge an assumption fee for a change in parties, the amount of such charge must be clearly set forth in the deed of trust at the time of execution. ***Without limiting or prohibiting any other method by which the amount of the charge may be clearly set forth in the deed of trust, the charge may be set forth as:***

1. ***A fixed sum;***
2. ***A percentage of the amount secured by the deed of trust and remaining unpaid at the time of assumption; or***
3. ***The lesser of, the greater of or some combination of the amounts determined by subsections 1 and 2.***

**Sec. 4.** NRS 107.081 is hereby amended to read as follows:

107.081 1. All sales of property pursuant to NRS 107.080 must be made at auction to the highest bidder and must be made between the hours of 9 a.m. and 5 p.m. The agent holding the sale must not become a purchaser at the sale or be interested in any purchase at such a sale.

2. All sales of real property must be made:

(a) ***For a residential foreclosure or foreclosure of a residential unit:***

(1) In a county with a population of less than 100,000, at the courthouse in the county in which the property or some part thereof is situated.

~~[(b)]~~ (2) In a county with a population of 100,000 or more, at the public location in the county designated by the governing body of the county for that purpose.

*(b) For a foreclosure of commercial property, at a location in the county in which the property or some part thereof is situated as specified in the notice of sale recorded by the trustee of the trust deed or transfer in trust.*

3. *For the purposes of this section:*

*(a) "Commercial property" has the meaning ascribed to it in NRS 645E.040.*

*(b) "Residential foreclosure" has the meaning ascribed to it in NRS 107.080.*

*(c) "Residential unit" means a unit in a common-interest community that is used exclusively for residential use, as those terms are defined in chapter 116 of NRS.*

**Sec. 4.5. NRS 40.451 is hereby amended to read as follows:**

40.451 As used in NRS 40.451 to 40.463, inclusive, "indebtedness" means the principal balance of the obligation secured by a mortgage or other lien on real property, together with ~~the~~ :

1. All interest accrued and unpaid prior to the time of foreclosure sale ~~;~~ ~~and~~ :

2. All costs and fees of such a sale ~~;~~ ~~and~~ :

3. All advances made with respect to the property by the beneficiary ~~;~~ ~~and~~ ~~the~~

4. All other amounts secured by the mortgage or other lien on the real property in favor of the person seeking the deficiency judgment. Such ~~amount constituting a lien is~~ other amounts are limited to the amount ~~of the consideration~~ paid by the lienholder ~~;~~ or the predecessor of the lienholder.

**Sec. 5. NRS 100.091 is hereby amended to read as follows:**

100.091 1. For each loan requiring the deposit of money to an escrow account, loan trust account or other impound account for the payment of taxes, assessments, rental or leasehold payments, ~~for fire, hazard or other~~ insurance premiums ~~;~~ or other obligations related to the encumbered property, the lender shall ~~;~~ ~~and~~ :

*(a) Require contributions in an amount reasonably necessary to pay the obligations as they become due.*

*(b) Unless money in the account is insufficient, pay in a timely manner the obligations as they become due.*

*(c) At least annually, analyze the account. The analysis of each account must be performed to determine whether sufficient money is contributed to the account on a monthly basis to pay for the projected disbursements from the account. At least 30 days before the effective date of any increased contribution to the account based on the analysis, a statement must be sent to the borrower showing the method of determining the amount of money held in the account, the amount of projected disbursements from the account and*

the amount of the reserves which may be held in accordance with federal guidelines.

2. If, upon completion of the analysis, it is determined that an account is not sufficiently funded to pay from the normal payment the items when due on the account, the lender shall offer the borrower the opportunity to correct the deficiency by making one lump-sum payment or by making increased monthly contributions, in an amount required by the lender. The lender shall not declare a default on the account solely because the borrower is unable to pay the amount of the deficiency in one lump sum.

3. ***Except for payments made by a borrower for a lender to recover previous deficiencies in contributions to the account pursuant to subsection 2, the borrower is entitled pursuant to subsection 4 to the amount by which the borrower's contributions to the account exceed the amount reasonably necessary to pay the annual obligations due from the account, together with interest thereon at the rate established pursuant to NRS 99.040.***

4. If, upon completion of the analysis, it is determined that the amount of money held by the lender in the account, together with anticipated future monthly contributions to the account to be credited to the account before the dates items are due on the account, exceed the amount of money required to pay the items when due, the lender shall, ~~at the option of~~ ***not later than 30 days after completion of its annual review of the account, notify the borrower:***

(a) ***Of the amount by which the contributions and interest earned pursuant to subsection 3 exceed the amount reasonably necessary to pay the annual obligations due from the account; and***

(b) ***That the borrower ~~either repay~~ may, not later than 20 days after receipt of the notice, specify that the lender:***

(1) ***Repay the excess money and interest promptly to the borrower ~~if~~ apply;***

(2) ***Apply the excess money and interest to the outstanding principal balance; or ~~retain~~***

(3) ***Retain the excess money and interest in the account.***

5. ***If the borrower fails to specify the disposition of the excess money and interest as provided in paragraph (b) of subsection 4, the lender shall maintain the excess money and interest in the account.***

6. If any payment on the loan is delinquent at the time of the analysis, the lender shall retain any excess money ***and interest*** in the account and apply the ***excess money and interest*** in the account toward payment of the delinquency.

~~{4.}~~ 7. ***A lender who violates any provision of subsections 4, 5 and 6 is liable to the borrower for a civil penalty of not more than \$1,000.***

8. ***The provisions of this section apply exclusively to:***

(a) ***A loan secured by a single family residence, as that term is defined in NRS 107.080; and***

*(b) A unit in a common-interest community that is used exclusively for residential use, as those terms are defined in chapter 116 of NRS.*

9. As used in this section:

(a) "Borrower" means any person who receives a loan secured by real property and who is required to make advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

(b) "Lender" means any person who makes loans secured by real property and who requires advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

**Sec. 6.** NRS 106.105 is hereby repealed.

#### **TEXT OF REPEALED SECTION**

**106.105 Contributions; payment of obligations; notice regarding and disposition of excess money; civil penalty.**

1. Except as otherwise provided in subsection 2, a lender who requires a borrower to make advance contributions to an impound trust account, or an account of similar name, for the payment of taxes, insurance premiums or other obligations related to the encumbered property shall:

(a) Require contributions in an amount reasonably necessary to pay the obligations as they become due.

(b) Unless money in the account is insufficient, pay in a timely manner the obligations as they become due.

(c) Within 30 days after the completion of its annual review of the account, notify the borrower:

(1) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual obligations due from the account; and

(2) That the borrower may specify the disposition of the excess money within 20 days after receipt of the notice. If the borrower fails to specify such a disposition within that time, the lender shall maintain the excess money in the account.

↪ A lender who violates any provision of this subsection is liable to the borrower for a civil penalty of not more than \$1,000.

2. A lender, to recover previous deficiencies in contributions to an impound trust account, may require contributions to the account in an amount greater than that reasonably necessary to pay the obligations as they become due. The borrower is otherwise entitled to the amount by which the borrower's contributions to the account exceed the amount reasonably necessary to pay the annual obligations due from the account, together with interest thereon at the rate established pursuant to NRS 99.040.

3. As used in this section:

(a) "Borrower" means a mortgagor, grantor of a deed of trust or other obligor on a loan secured by a lien upon real property.

(b) "Lender" means a mortgagee, beneficiary of a deed of trust or other obligee on a loan secured by a lien upon real property, and his or her successor in interest.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment revises provisions limiting the amount of certain secured interests included in the term "indebtedness" for the purpose of foreclosure sales and deficiency judgments.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bills Nos. 403, 417, 488, 495; Senate Joint Resolution No. 8, be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

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

Senate in recess at 11:41 a.m.

SENATE IN SESSION

At 12:24 p.m.

President Krolicki presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Assistant Secretary of the Senate signed Senate Concurrent Resolution No. 6.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the Floor of the Senate Chamber for this day was extended to Kelly Gregory.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Haley Brower.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Diane Baranowski.

Senator Wiener moved that the Senate adjourn until Monday, April 18, 2011, at 12 p.m.

Motion carried.

Senate adjourned at 12:26 p.m.

Approved:

BRIAN K. KROLICKI

*President of the Senate*

Attest: SHERRY L. RODRIGUEZ

*Assistant Secretary of the Senate*