

THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 23, 2011

Senate called to order at 10:12 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

Almighty God and Father, thank You for the opportunity to serve the citizens of Nevada today as we meet in this Chamber to discuss and move the bills that have been presented to us. Guide and lead us that our decisions may be based not on our own needs or positions, but for the good of this great State.

Guide our discussions that we may be kind, gentle and forgiving to each other, especially to those who are not in agreement with our positions.

We also come to You today asking for Your help and assistance for the brave people of the Midwest in our country who are reeling after the tornados that buffeted that area yesterday. Give comfort to those who have experienced loss of family, friends and possessions. Keep in safety all those who are in the process of responding to this tragedy.

All these things we bring to You trusting in Your love, grace and mercy, in the Name of Your Son, Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 299, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 309, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 478, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 59, 198, 304, 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 459, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 498.

Bill read second time and ordered to third reading.

Assembly Bill No. 20.

Bill read second time.

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

Amendment No. 618.

"SUMMARY—Revises provisions governing the practice of optometry. (BDR 54-501)"

"AN ACT relating to optometry; requiring the Nevada State Board of Optometry to issue a license by endorsement to practice optometry in this State in certain circumstances; revising provisions governing the examination for licensure by the Board; revising provisions governing the discipline and unprofessional or unethical conduct of licensees; repealing provisions that require the Board to maintain a roster of licensees; repealing provisions that pertain to the scope of reexaminations for licensure; establishing fees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires each applicant for a license to practice optometry in this State to take and pass an examination prepared and administered by the Nevada State Board of Optometry or by a testing agency that has been designated by the Board. The examination must test the fitness of an applicant to practice optometry and include testing of the applicant's knowledge of statutes and regulations governing the practice of optometry. (NRS 636.150, 636.180, 636.185) Other states have enacted legislation creating exceptions from general licensure provisions which allow certain qualified persons who are licensed in another jurisdiction to receive a license to practice optometry without requiring the licensee to take an examination that is designed to evaluate competency to practice optometry. However, existing law in this State does not authorize such an exception.

Section 2 of this bill provides for the issuance of a license by endorsement to practice optometry and requires the Board to issue a license by endorsement to certain qualified applicants who are licensed to practice optometry in the District of Columbia or other states or territories and who have been continuously and actively engaged in the practice of optometry for the 5 years immediately preceding the date on which they apply to the Board for the issuance of a license by endorsement. **Section 7** of this bill requires an applicant for a license by endorsement to take and pass an examination, but **section 3** of this bill provides that the examination must test only the

applicant's knowledge of statutes and regulations governing the practice of optometry in this State. **Section 5** of this bill establishes the fees which must be paid by an applicant for the examination for a license by endorsement and for the issuance and renewal of a license by endorsement.

Section 10 of this bill revises provisions governing the score required to pass the examinations, and **sections 6, 8, 9, 11 and 12** of this bill make certain revisions to distinguish between the examination for and issuance of a license to practice optometry and a license by endorsement.

Existing law also defines the scope of the practice of optometry in this State and authorizes the Board to discipline licensees for certain acts or omissions and determine what acts constitute unethical or unprofessional conduct by licensees. (NRS 636.025, 636.130, 636.290-636.340) **Section 4.5 of this bill provides that a license to practice optometry does not authorize an optometrist to engage in acts or perform procedures which are not authorized by law.** **Section 13** of this bill authorizes the Board to discipline licensees for the commission of a felony ~~or~~ **or** for conduct that demonstrates incompetency in the practice of optometry, ~~for for practicing or offering to practice optometry outside the scope of practice authorized by law.~~

Sections 14 and 15 of this bill revise provisions pertaining to unprofessional or unethical conduct relating to the use of prescription blanks and the sale, solicitation or advertisement of certain products and services.

Section 16 of this bill repeals provisions requiring the Board to maintain a roster of licensees and authorizing the Board to determine the scope of reexaminations for licensure.

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

Section 1. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *The Board shall, except for good cause, issue a license by endorsement to practice optometry to an applicant who has been issued a license to practice optometry by the District of Columbia or any state or territory of the United States if:*

(a) At the time the applicant files an application with the Board, the license issued to the applicant by the District of Columbia or the other state or territory of the United States is in effect and unrestricted; and

(b) The applicant:

(1) Has obtained a passing score on an examination for licensure that is recognized by the Board as an appropriate examination to assess competency in the practice of optometry;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the 5 years immediately preceding the date of the application;

(3) Has been continuously and actively engaged in the practice of optometry for the 5 years immediately preceding the date of the application;

(4) Is not involved in and does not have pending any disciplinary action concerning a license to practice optometry in the District of Columbia or any state or territory of the United States;

(5) Provides information to the Board about any malpractice claim that has been brought against the applicant, regardless of when the claim was filed or how the claim was resolved;

(6) Obtains a passing score on the examination for licensure by endorsement administered by the Board pursuant to NRS 636.170; and

(7) Pays the fee required by NRS 636.143.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by the President and Executive Director. Such action shall be deemed to be an action of the Board.

Sec. 3. An examination for licensure by endorsement must:

1. Test only the examinee's knowledge of statutes and regulations governing the practice of optometry in this State;

2. Be prepared and administered by the Board or a testing agency that has been designated by the Board to conduct its examinations; and

3. Be conducted in the English language.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. NRS 636.025 is hereby amended to read as follows:

636.025 1. The acts set forth in this ~~section,~~ **subsection,** or any of them, whether done severally, collectively or in combination with other acts that are not set forth in this ~~section,~~ **subsection** constitute practice in optometry within the purview of this chapter:

(a) Advertisement or representation as an optometrist.

(b) Adapting, or prescribing or dispensing, without prescription by a practitioner of optometry or medicine licensed in this State, any ophthalmic lens, frame or mounting, or any part thereof, for correction, relief or remedy of any abnormal condition or insufficiency of the eye or any appendage or visual process. The provisions of this paragraph do not prevent an optical mechanic from doing the mere mechanical work of replacement or duplication of the ophthalmic lens or prevent a licensed dispensing optician from engaging in the practice of ophthalmic dispensing.

(c) The examination of the human eye and its appendages, the measurement of the powers or range of human vision, the determination of the accommodative and refractive states of the eye or the scope of its function in general, or the diagnosis or determination of any visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies of the eye or its appendages or visual processes.

(d) Prescribing, directing the use of or using any optical device in connection with ocular exercises, orthoptics or visual training.

(e) The prescribing of contact lenses.

(f) The measurement, fitting or adaptation of contact lenses to the human eye except under the direction and supervision of a physician, surgeon or optometrist licensed in the State of Nevada.

(g) The topical use of diagnostic pharmaceutical agents to determine any visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies of the eye or its appendages or visual processes.

(h) Prescribing, directing the use of or using a therapeutic pharmaceutical agent to treat an abnormality of the eye or its appendages.

(i) Removing a foreign object from the surface or epithelium of the eye.

(j) The ordering of laboratory tests to assist in the diagnosis of an abnormality of the eye or its appendages.

2. The provisions of ~~this section~~ **subsection 1** do not authorize an optometrist to engage in any practice which includes:

(a) The incision or suturing of the eye or its appendages; or

(b) The use of lasers for surgical purposes.

3. A license to practice optometry issued pursuant to this chapter does not authorize an optometrist to engage in any act or perform any procedure which is not authorized by this chapter or the regulations adopted pursuant thereto.

Sec. 5. NRS 636.143 is hereby amended to read as follows:

636.143 The Board shall establish within the limits prescribed a schedule of fees for the following purposes:

	Not less than	Not more than
Examination , including examination for license by endorsement	\$100	\$500
Reexamination , including reexamination for license by endorsement	100	500
Issuance of each license or duplicate license , including a license by endorsement	35	75
Renewal of each license or duplicate license , including a license by endorsement	100	500
Issuance of a license for an extended clinical facility.....	100	500
Issuance of a replacement renewal card for a license	10	50

Sec. 6. NRS 636.150 is hereby amended to read as follows:

636.150 ~~Any~~ **Except as otherwise provided in section 2 of this act, any** person applying for a license to practice optometry in this State must:

1. File proof of his or her qualifications;
2. Make application for an examination;
3. Take and pass the examination;
4. Pay the prescribed fees; and

5. Verify that all the information he or she has provided to the Board or to any other entity pursuant to the provisions of this chapter is true and correct.

Sec. 7. NRS 636.170 is hereby amended to read as follows:

636.170 The Board shall ~~+~~

~~1. Conduct a regular annual examination, and may conduct a special examination when it deems that circumstances warrant such examination.~~

~~2. Fix and announce the time and place of any examination at least 30 days prior to the day when it is to be commenced.~~ **conduct an examination of each applicant for licensure and each applicant for licensure by endorsement by the Board. The examination must be administered at a time and place designated by the Board.**

Sec. 8. NRS 636.180 is hereby amended to read as follows:

636.180 An examination *other than an examination for licensure by endorsement* must:

1. Be practical in character and design as determined by the Board;
2. Test the fitness of the examinee to practice optometry;
3. Be prepared and administered by the Board or a testing agency that has been designated by the Board to conduct its examinations; and
4. Be conducted in the English language.

Sec. 9. NRS 636.185 is hereby amended to read as follows:

636.185 1. An examination, other than ~~one~~ **an examination** conducted solely for reexamination of an examinee who has failed in a previous examination ~~+~~ **or an examination for licensure by endorsement**, must include testing in the following areas:

- (a) General anatomy.
 - (b) General physiology.
 - (c) Ocular anatomy.
 - (d) Ocular physiology.
 - (e) Ocular pathology.
 - (f) Geometric optics.
 - (g) Physiological optics.
 - (h) Theoretical optometry.
 - (i) Practical optometry.
 - (j) Retinoscopy and ophthalmic instruments.
 - (k) Ophthalmoscopy and biomicroscopy.
 - (l) Neurology, visual fields and perimetry.
 - (m) Vision therapy.
 - (n) Clinical optometry.
 - (o) Contact lenses.
 - (p) Pharmacology.
 - (q) Statutes and regulations governing the practice of optometry.
 - (r) Such other areas as the Board may prescribe.
2. An examination , **other than an examination conducted solely for reexamination of an examinee who has failed in a previous examination or**

an examination for licensure by endorsement, must also provide for an evaluation of the examinee's knowledge of the following areas:

- (a) Basic science.
- (b) Clinical science.
- (c) Care and management of patients.

Sec. 10. NRS 636.190 is hereby amended to read as follows:

636.190 Except as otherwise provided in NRS 622.090, a grade of 75 or higher ~~for each area tested on the examination~~ is required to pass an examination.

Sec. 11. NRS 636.215 is hereby amended to read as follows:

636.215 The Board shall execute a license *other than a license by endorsement* for each person who has satisfied the requirements of NRS 636.150 and submitted all information required to complete an application for a license. A license must:

1. Certify that the licensee has been examined and found qualified to practice optometry in this State; and
2. Be signed by each member of the Board.

Sec. 12. NRS 636.220 is hereby amended to read as follows:

636.220 ~~The~~ A license *executed pursuant to NRS 636.215* must be issued and delivered by the Executive Director to the licensee upon payment to the Executive Director of the prescribed fee.

Sec. 13. NRS 636.295 is hereby amended to read as follows:

636.295 The following acts, conduct, omissions, or mental or physical conditions, or any of them, committed, engaged in, omitted, or being suffered by a licensee, constitute sufficient cause for disciplinary action:

1. Affliction of the licensee with any communicable disease ~~likely to~~ *which may* be communicated to other persons.
2. Commission by the licensee of a felony ~~relating to the practice of optometry~~ or of a gross misdemeanor involving moral turpitude of which the licensee has been convicted and from which he or she has been sentenced by a final judgment of a federal or state court in this or any other state, the judgment not having been reversed or vacated by a competent appellate court and the offense not having been pardoned by executive authority.
3. Conviction of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.
4. Commission of fraud by or on behalf of the licensee in obtaining a license or a renewal thereof, or in practicing optometry thereunder.
5. Habitual drunkenness or addiction to any controlled substance.
6. ~~Gross incompetency~~ *Incompetency in the practice of optometry or conduct which demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation in the practice of optometry.*
7. Affliction with any mental or physical disorder or disturbance ~~seriously impairing~~ *which impairs* his or her competency as an optometrist.
8. Making false or misleading representations, by or on behalf of the licensee, with respect to optometric materials or services.

9. Practice by the licensee, or attempting or offering so to do, while in an intoxicated condition.

10. Perpetration of unethical or unprofessional conduct in the practice of optometry.

11. Any violation of the provisions of this chapter or any regulations adopted pursuant thereto.

12. ~~Practicing or offering to practice optometry outside the scope of practice authorized by law.~~

~~13.~~ Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 14. NRS 636.300 is hereby amended to read as follows:

636.300 The following acts, among others, constitute unethical or unprofessional conduct:

1. Association as an optometrist with any person, firm or corporation violating this chapter.

2. Accepting employment ~~or~~ **as an optometrist or in the practice of optometry**, directly or indirectly, from a person not licensed to practice optometry in this State, ~~to assist the person in such practice or enabling the person to engage therein,~~ except as authorized in NRS 636.347.

3. Signing **or using** the prescription blanks of another optometrist, **ophthalmologist or medical professional** or allowing another optometrist, **ophthalmologist or medical professional** to **sign or** use his or her prescription blanks.

4. Except as otherwise provided in NRS 636.372 and 636.373, practicing in or on premises where any materials other than those necessary to render optometric examinations or services are dispensed to the public, or where a business is being conducted not exclusively devoted to optometry or other healing arts and materials or merchandise are displayed having no relation to the practice of optometry or other healing arts.

Sec. 15. NRS 636.302 is hereby amended to read as follows:

636.302 The following acts, among others, constitute unethical or unprofessional conduct:

1. Making a house-to-house canvass, either in person or by another person, for advertising, selling or soliciting the sale of **contact lenses**, eyeglasses, frames, lenses, mountings, or optometric examinations or services.

2. Circulating or publishing, directly or indirectly, any false, fraudulent or misleading statement as to optometric materials or services, his or her method of practice or skill, or the method of practice or skill of any other licensee.

3. Advertising in any manner that will tend to deceive, defraud or mislead the public.

~~4. Advertising, directly or indirectly, free optometric examinations or services.~~

Sec. 16. NRS 636.120 and 636.200 are hereby repealed.

Sec. 17. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTIONS

636.120 Roster of licenses: Preparation and distribution. Once each year, the Board shall prepare and distribute to all licensees a roster containing their names and addresses.

636.200 Scope of reexamination. An examinee whose request for reexamination has been granted may, at the discretion of the Board or the testing agency designated by the Board to conduct its examinations, be required to retake:

1. The entire examination; or
2. Only the section or sections of the examination on which the examinee did not receive the grade required to pass.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 618 to Assembly Bill No. 20 provides that a license to practice optometry does not authorize an optometrist to engage in any act or perform any procedure which is not authorized under the statutes or regulations pertaining to optometry.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

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

Senate in recess at 10:18 a.m.

SENATE IN SESSION

At 10:21 a.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 77.

Bill read second time.

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

Amendment No. 617.

"SUMMARY—Makes various changes relating to mortgage lending and related professionals. (BDR 54-481)"

"AN ACT relating to mortgage lending; revising provisions relating to the licensing of escrow agents and escrow agencies; revising provisions relating to a surety bond or substitute security posted by an escrow agency; requiring the Commissioner of Mortgage Lending to establish certain fees; revising provisions relating to disciplinary action for an escrow agent or escrow agency; establishing provisions governing the arranging or servicing of loans in which an investor has an interest; requiring a mortgage broker who services a loan to make certain reports; exempting certain natural persons and nonprofit organizations from statutes governing mortgage brokers and mortgage agents; revising provisions relating to a surety bond posted by a mortgage broker; requiring a mortgage broker to review an impound trust account annually; revising provisions relating to the renewal of a license as a mortgage banker; enacting requirements for mortgage brokers and for mortgage bankers to make the statutory schemes governing the two professions more similar; allowing disclosure of certain confidential information relating to an investigation; enacting provisions for the enforcement of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; requiring the licensing of a person who performs the services of a construction control; requiring the licensing of a provider of certain additional services as a provider of covered services; revising provisions relating to compensation for a provider of covered services; increasing certain administrative fines; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the conduct of escrow agents and escrow agencies and requires the Commissioner of Mortgage Lending to supervise and control the conduct of escrow agents and escrow agencies within this State. (Chapter 645A of NRS) **Section 3.5** of this bill includes the performance of the services of a construction control within the definition of escrow. **Sections 4 and 5** of this bill revise provisions relating to the licensing of escrow agents and escrow agencies. **Section 6** of this bill revises provisions relating to the surety bond posted by an escrow agency. **Sections 8 and 9** of this bill revise provisions relating to the fees and costs relating to escrow agents and escrow agencies that the Commissioner is authorized to collect. **Sections 2 and 10-12** of this bill revise provisions relating to discipline for activities relating to escrow agents and escrow agencies.

Existing law governs the conduct of mortgage agents and mortgage brokers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage agents and mortgage brokers within this State. (Chapter 645B of NRS) **Sections 21, 22, 24, 25, 34 and 37** of this bill establish provisions governing the arranging or servicing of loans by a mortgage broker in which an investor has an interest. **Section 44** of this bill revises the exemptions from the statutes governing mortgage agents and mortgage brokers. **Sections 47 and 48** of this bill revise provisions relating to a surety bond posted by a mortgage broker. **Section 53** of this bill

authorizes the Commissioner to disclose certain confidential information relating to an investigation. **Section 56** of this bill requires a mortgage broker to review an impound trust account annually.

Existing law governs the conduct of mortgage bankers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage bankers within this State. (Chapter 645E of NRS) **Section 72** of this bill revises the exemptions from the statutes governing mortgage bankers. **Section 81** of this bill authorizes the Commissioner to disclose certain confidential information relating to an investigation.

Existing law requires the Commissioner to adopt regulations concerning the licensing of persons who provide certain covered services. (NRS 645F.390) **Section 96** of this bill includes additional services within the definition of "covered services." **Section 101** of this bill revises provisions governing the compensation a provider of covered services may receive. **Existing law exempts an attorney at law from the requirements concerning the licensing of persons who provide covered services for compensation, but section 98 of this bill specifically provides that an attorney at law is subject to the provisions of section 88.5 of this bill, which prohibit a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from requesting or receiving any compensation before a homeowner executes a written agreement that incorporates an offer of mortgage assistance.**

Sections 42, 45, 46, 50-55, 59, 60, 62-64, 67, 69, 73, 76, 79-82 and 99 of this bill enact or revise provisions to implement the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

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

Section 1. NRS 645.8725 is hereby amended to read as follows:

645.8725 "Escrow" has the meaning ascribed to it in subsection ~~3~~ 4 of NRS 645A.010.

Sec. 1.3. NRS 645.8731 is hereby amended to read as follows:

645.8731 "Escrow agent" has the meaning ascribed to it in subsection ~~3~~ 4 of NRS 645A.010.

Sec. 1.7. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *If a person offers or provides any of the services of an escrow agent or escrow agency or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of an escrow agent or escrow agency and, at the time:*

1. *The person was required to have a license pursuant to this chapter and the person did not have such a license; or*
2. *The person's license was suspended or revoked pursuant to this chapter,*

↪ *the Commissioner shall impose upon the person an administrative fine of not more than \$25,000 for each violation and, if the person has a license, the Commissioner may suspend or revoke it.*

Sec. 3. 1. *If an escrow agency is not a natural person, the escrow agency must designate a natural person as a qualified employee to act on behalf of the escrow agency.*

2. *The Division shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:*

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 3.5. NRS 645A.010 is hereby amended to read as follows:

645A.010 As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the Commissioner of Mortgage Lending.

2. ***"Construction control" has the meaning ascribed to it in NRS 627.050.***

3. "Division" means the Division of Mortgage Lending of the Department of Business and Industry.

~~3~~ 4. "Escrow" means any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor or any agent or employee of any of the latter. The term includes the collection of payments and the performance of related services by a third person in connection with a loan secured by a lien on real property ~~†~~

~~4~~ ***and the performance of the services of a construction control.***

5. "Escrow agency" means:

(a) Any person who employs one or more escrow agents; or

(b) An escrow agent who administers escrows on his or her own behalf.

~~5~~ 6. "Escrow agent" means any person engaged in the business of administering escrows for compensation.

Sec. 4. NRS 645A.020 is hereby amended to read as follows:

645A.020 1. A person who wishes to be licensed as an escrow agent or agency must file a written application in the Office of the Commissioner.

2. The application must:

(a) Be verified.

(b) Be accompanied by the appropriate fee prescribed in NRS 645A.040.

(c) State the location of the applicant's principal office and branch offices in the State and residence address.

(d) State the name under which the applicant will conduct business.

(e) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each.

(f) Indicate the general plan and character of the business.

(g) State the length of time the applicant has been engaged in the escrow business.

(h) Require a financial statement of the applicant.

(i) Require such other information as the Commissioner determines necessary.

(j) If for an escrow agency, designate a natural person to receive service of process in this State for the agency.

(k) ***Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the escrow agency as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.***

(l) Include all information required to complete the application.

3. If the Commissioner determines, after investigation, that the experience, character, financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public, the Commissioner shall issue a license to the applicant as an escrow agent or agency.

4. The Commissioner may waive the investigation required by subsection 3 if the applicant submits with the application satisfactory proof that the applicant, in good standing, currently holds a license, or held a license, within 1 year before the date the applicant submits his or her application, which was issued pursuant to the provisions of NRS 692A.103.

5. An escrow agent or agency shall immediately notify the Division of any material change in the information contained in the application.

6. A person may not be licensed as an escrow agent or agency or be a principal, ***partner***, officer, director or trustee of an escrow agency if the person is the holder of an active license issued pursuant to chapter 645 of NRS.

7. ***If the Commissioner finds that additional information is required to consider the application, the Commissioner shall send a letter to the applicant which specifies the additional requirements that the applicant must satisfy within 30 days after receiving the letter to obtain a license. If the applicant does not satisfy all additional requirements set forth in the letter within 30 days after receipt of the letter, the application will be deemed to have been denied, and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.***

Sec. 5. NRS 645A.040 is hereby amended to read as follows:

645A.040 1. Every license issued pursuant to the provisions of this chapter expires on July 1 of each year if it is not renewed. A license may be renewed by filing an application for renewal, paying the annual fee for the succeeding year and submitting all information required to complete the renewal.

2. The fees for the issuance or renewal of a license for an escrow agency are:

(a) For filing an application for an initial license, \$500 for the principal office and \$100 for each branch office.

(b) If the license is approved for issuance, \$200 for the principal office and \$100 for each branch office. The fee must be paid before issuance of the license.

(c) For filing an application for renewal, \$200 for the principal office and \$100 for each branch office.

3. The fees for the issuance or renewal of a license for an escrow agent are:

(a) For filing an application for an initial license or for the renewal of a license, \$100.

(b) If a license is approved for issuance or renewal, \$25. The fee must be paid before the issuance or renewal of the license.

4. If a licensee fails to pay the fee or submit all required information for the annual renewal of his or her license before its expiration, the license may be renewed only upon the payment of a fee one and one-half times the amount otherwise required for renewal. A license may be renewed pursuant to this subsection only if all the fees are paid and all required information is submitted within ~~1 year~~ **2 months** after the date on which the license expired.

5. In addition to the other fees set forth in this section, each applicant or licensee shall pay:

(a) For filing an application for a duplicate copy of any license, upon satisfactory showing of its loss, \$10.

(b) For filing any change of information contained in the application, \$10.

(c) For each change of association with an escrow agency, \$25.

6. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 6. NRS 645A.041 is hereby amended to read as follows:

645A.041 1. Except as otherwise provided in NRS 645A.042, as a condition to doing business in this State, each escrow agency shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the escrow agency and all escrow agents employed by or associated with the escrow agency.

2. At the time of filing an application for a license as an escrow agent, the applicant shall file with the Commissioner proof that the applicant is named as a principal on the corporate surety bond deposited with the Commissioner by the escrow agency with whom he or she is associated or employed.

3. The bond must be in substantially the following form:

Know All Persons by These Presents, that, as principal, and, as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645A of NRS, in the sum of, lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as an escrow agency or escrow agent by the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his or her agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the(day) of(month) of ...(year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at, Nevada, this(day) of(month) of(year).

..... (Seal)

Principal

..... (Seal)

Surety

By

Attorney-in-fact

.....
Nevada Licensed
~~resident agent~~ **Insurance Agent**

4. Each escrow agency shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 645A.042 in the following amount based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160:

AVERAGE MONTHLY BALANCE	AMOUNT OF BOND OR SECURITY REQUIRED
\$50,000 or less.....	\$20,000
More than \$50,000 but not more than \$250,000	50,000
More than \$250,000 but not more than \$500,000	100,000
More than \$500,000 but not more than \$750,000	150,000
More than \$750,000 but not more than \$1,000,000	200,000
More than \$1,000,000	250,000

The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the escrow agency based upon the expected average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160. After the initial deposit, the Commissioner shall, on a semiannual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the escrow agency based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160.

5. A bond used to satisfy the requirements of NRS 627.180 or a substitute for that bond which satisfies the requirements of NRS 627.183 may be used to satisfy the requirements of this section if:

(a) The amount required by NRS 627.180 for a bond is not less than the amount required by this section for a bond; or

(b) The amount required by NRS 627.180 for a bond is less than the amount required by this section for a bond, and the escrow agency deposits an additional bond in an amount not less than the difference between the amount required by NRS 627.180 and the amount required by this section.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 645A.065 is hereby amended to read as follows:

645A.065 1. The Commissioner shall establish by regulation the fees to be paid by ~~escrow agencies~~ **all persons subject to the provisions of this chapter** for the supervision, **investigation** and examination of such ~~agencies~~ **persons** by the Commissioner or the Division.

2. In establishing the fees, the Commissioner shall consider:

(a) The complexity of the various **investigations and** examinations to which the fees apply;

(b) The skill required to conduct such **investigations and** examinations;

(c) The expenses associated with conducting such *investigations and* examinations and preparing reports; and

(d) Any other factors the Commissioner deems relevant.

3. The Commissioner shall adopt regulations prescribing the standards for determining whether an escrow agency has maintained adequate supervision of an escrow agent pursuant to the provisions of this chapter.

Sec. 9. NRS 645A.085 is hereby amended to read as follows:

645A.085 1. An escrow agency shall immediately notify the Commissioner of any change in the ownership of 5 percent or more of its outstanding voting stock.

2. An application must be submitted to the Commissioner, pursuant to NRS 645A.020, by a person who acquires:

(a) At least 25 percent of the outstanding voting stock of an escrow agency; or

(b) Any outstanding voting stock of an escrow agency if the change will result in a change in the control of the escrow agency.

3. Except as otherwise provided in subsection 5, the Commissioner shall conduct an investigation to determine whether the applicant has the experience, character, financial condition, business reputation and general fitness to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public. If the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the escrow agency.

4. The escrow agency with which the applicant is affiliated shall pay ~~the~~ ~~portion of~~ the cost of the investigation as the Commissioner requires. All money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. An escrow agency may submit a written request to the Commissioner to waive an investigation pursuant to subsection 3. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

Sec. 10. NRS 645A.090 is hereby amended to read as follows:

645A.090 1. The Commissioner may refuse to license any escrow agent or agency or may suspend, ~~or~~ revoke *or place conditions upon* any license or impose a fine *on any person* of not more than ~~the amount of \$10,000~~ *\$25,000* for each violation by entering an order to that effect, with the Commissioner's findings in respect thereto, if upon a hearing, it is determined that the applicant, ~~or~~ licensee ~~is~~ *or person:*

(a) In the case of an escrow agency, is insolvent;

(b) Has violated any provision of this chapter, ~~or~~ any regulation adopted pursuant thereto *or an order of the Commissioner or* has aided and abetted another to do so;

(c) In the case of an escrow agency, is in such a financial condition that he or she cannot continue in business with safety to his or her customers;

(d) Has committed fraud in connection with any transaction governed by this chapter;

(e) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact from, any principal or designated agent of a principal in the course of the escrow business;

(f) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from the Commissioner any information which the applicant, ~~the~~ licensee **or person** possesses;

(g) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(i) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(j) Has been convicted of, **entered or agreed to enter a plea of guilty or nolo contendere to**, a felony relating to the practice of escrow agents or agencies or any **felony or** misdemeanor of which an essential element is **an act of fraud** ~~the~~, **dishonesty or a breach of trust, moral turpitude or money laundering**;

(k) In the case of an escrow agency, has failed to maintain complete and accurate records of all transactions within the last 6 years;

(l) Has commingled the money of others with his or her own or converted the money of others to his or her own use;

(m) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(n) Has failed to disclose in writing that he or she is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction; ~~the~~

(o) In the case of an escrow agency, has:

(1) Failed to maintain adequate supervision of an escrow agent; or

(2) Instructed an escrow agent to commit an act which would be cause for the revocation of the escrow agent's license and the escrow agent committed the act. An escrow agent is not subject to disciplinary action **by the Commissioner** for committing such an act under instruction by the escrow agency ~~the~~;

(p) **In the case of an escrow agency, if the applicant or licensee is a partnership, corporation or unincorporated association, has a member of**

the partnership or an officer or director of the corporation or unincorporated association who has been convicted of, entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court relating to the practice of escrow agents or agencies, or any felony or misdemeanor of which an essential element is an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering; or

(q) In the case of a person who performs the services of a construction control, has failed to comply with the provisions of chapter 627 of NRS.

2. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of, *or the placement of conditions upon*, the license of a partnership, corporation or any other association that any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for such action had the applicant or licensee been a natural person.

3. The Commissioner may suspend any license for not more than 30 days, pending a hearing, if upon examination into the affairs of the licensee it is determined that any of the grounds enumerated in subsection 1 or 2 exist.

4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.

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

Sec. 11. NRS 645A.100 is hereby amended to read as follows:

645A.100 1. Notice of the entry of any order of suspension, ~~for~~ revocation or *placement of conditions upon a license or* of imposing a fine or refusing a license to any escrow agent or agency must be given in writing, served personally or sent by certified mail or by telegram to the last known address of the agent or agency affected.

2. The agent or agency, upon application, is entitled to a hearing. If an application is not made within 20 days after the entry of the order, the Commissioner shall enter a final order.

Sec. 12. NRS 645A.235 is hereby amended to read as follows:

645A.235 1. ~~The holder of~~ *A person who engages in an activity for which* a license as an escrow agent or escrow agency ~~may be~~ is required *pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required* by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of

subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 13. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 40.7, inclusive, of this act.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. *"Dwelling" has the meaning ascribed to it in section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).*

Sec. 17. (Deleted by amendment.)

Sec. 17.5. 1. *"Loan processor" means a natural person who:*

(a) Receives, collects, distributes or analyzes information that is commonly used for the processing of a residential mortgage loan; and

(b) Communicates with a consumer to obtain the information necessary for the activities described in paragraph (a).

2. The communication described in paragraph (b) of subsection 1 does not include communication offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

Sec. 18. *"Majority of the investors" means the investors holding 51 percent or more of the beneficial interests in a loan.*

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. *A mortgage broker shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan which has more than one investor at the time of origination unless the mortgage broker provides to each investor a form which allows the investor to choose one of the following options:*

1. That, upon receipt of a written request submitted by another investor who owns or has a beneficial interest in the loan, the mortgage broker may provide to that other investor the name, address, telephone number and electronic mail address of the investor;

2. That, upon receipt of a written request submitted by another investor who owns or has a beneficial interest in the loan, the mortgage broker may provide to that other investor the name, address, telephone number and electronic mail address of the investor only if the loan is in default; or

3. That the address, telephone number and electronic mail address of the investor must remain confidential and that the mortgage broker may not provide that information to any other investor unless the investor provides the mortgage broker with subsequent written permission to provide such information to other investors.

Sec. 22. 1. *A mortgage broker who makes or arranges a loan shall not include in any loan document a provision which requires a private investor to participate in binding arbitration of disputes relating to the loan.*

2. *The provisions of this section may not be varied by agreement, and the rights conferred by this section may not be waived. Any provision included in a loan document agreement that conflicts with this section is void.*

Sec. 23. (Deleted by amendment.)

Sec. 24. 1. *Before servicing a loan in which a private investor has acquired a beneficial interest, a mortgage broker must enter into a written servicing agreement with each investor which describes specifically the services which the mortgage broker will provide and the compensation the mortgage broker will receive for those services. The compensation of the mortgage broker must include an amount reasonably necessary to pay the cost of servicing the loan.*

2. *A mortgage broker shall include in each servicing agreement provisions which:*

(a) *Require the mortgage broker to:*

(1) *Deposit in a trust account all money paid to the mortgage broker in full or partial payment of a loan, unless a provision of law authorizes the mortgage broker to deposit such money in a different manner;*

(2) *Release to the investors, pursuant to paragraph (a) of subsection 5 of NRS 645B.175, within 15 days after receipt of all money paid to the mortgage broker in full or partial payment of a loan;*

(3) *Record a request for special notice and notice of default for any encumbrance on the real property which has priority over the lien securing the loan or any other real property securing the loan;*

(4) *Provide to each investor prompt written notice of:*

(I) *Any lis pendens, mechanic's lien or other lien recorded against the real property securing the loan after the origination of the loan if the mortgage broker has become aware that such an instrument has been recorded; and*

(II) *Any delinquent taxes or insurance premiums;*

(5) *Upon receiving a written request from an investor for a tally of any vote of the investors, provide to the investor a statement of the number of investors voting in favor of an action and the number of investors voting against the action and the percentage of beneficial interest represented by each such vote; and*

(6) *Respond within a reasonable time under the circumstances to the request of the borrower or investor to correct any errors relating to the loan.*

(b) *Prohibit the mortgage broker from:*

(1) *Commingling with the assets of the mortgage broker any money paid to the mortgage broker in full or partial payment of a loan, unless a provision of law authorizes such commingling;*

(2) *Using money paid to the mortgage broker in full or partial payment of a loan for any transaction other than the servicing transaction*

for which the money was paid, unless a provision of law authorizes such use ; or

(3) Requiring an investor to participate in binding arbitration of disputes relating to the loan.

(c) Allow the majority of investors or the mortgage broker to transfer the servicing agreement to another entity authorized to service loans or terminate the servicing agreement for any reason, upon providing written notice at least 30 days before the effective date of the transfer or termination.

Sec. 25. *Except as otherwise permitted by law, a mortgage broker shall not release a borrower or guarantor from personal liability for a loan unless a majority of the investors approve such a release.*

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. *1. If an investor owes money to the mortgage broker who is servicing a loan or to other investors, the mortgage broker shall not withhold money due the investor in order to offset the money owed to the mortgage broker or to another investor, unless:*

(a) The mortgage broker obtains the written consent of the investor who owes the money; or

(b) A court order requires the mortgage broker to withhold the money.

2. A mortgage broker may include in a loan servicing agreement a provision which provides written consent to withhold money due an investor in order to offset money owed by the investor to the mortgage broker or other investors.

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. *A mortgage broker shall not act as a construction control with respect to money belonging to a borrower or investor. If a borrower or investor wishes to utilize a construction control for money belonging to the borrower or investor, a mortgage broker must place the money with a person who is independent of the mortgage broker and is licensed or authorized to accept such money. The money must be subject to the control of a construction control which is in compliance with, or exempt from, the provisions of NRS 627.180 or 627.183.*

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 40.3. 1. *A mortgage broker shall not place or arrange to place a private investor into a limited-liability company, business trust or other entity before foreclosure of the real property securing the loan unless the mortgage broker:*

(a) Provides a copy of the organizational documents of the limited-liability company, business trust or other entity to each investor not later than 5 days before the investor transfers his or her interest in the loan; and

(b) Obtains the written authorization of each investor who wishes to transfer his or her interest in the loan to the limited-liability company, business trust or other entity.

2. *The documents provided to each investor pursuant to paragraph (a) of subsection 1 must clearly and concisely state any fees which will be paid to the mortgage broker by the limited-liability company, business trust or other entity, and the sections of the documents that state fees must be initialed by the investor.*

3. *A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of a private investor for the signing or dating of the written authorization.*

4. *Any term of a contract or other agreement that attempts to alter or waive the requirements of this section is void.*

Sec. 40.7. 1. *A mortgage broker shall not assess or collect any fee which is not:*

(a) Authorized by the loan documents or loan servicing agreement; and

(b) Assessed or collected in exchange for bona fide services rendered or costs incurred.

2. *A mortgage broker shall apply all fees collected in the manner set forth in the loan documents or loan servicing agreement.*

Sec. 41. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0104 to 645B.0135, inclusive, **and sections 14 to 18, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 42. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means:

(a) A natural person who:

(1) Is an employee of a mortgage broker or mortgage banker who is required to be licensed pursuant to this chapter or chapter 645E of NRS; and

(2) Is authorized by the mortgage broker or mortgage banker to engage in, on behalf of the mortgage broker or mortgage banker, any activity that would require the person, if the person were not an employee of the mortgage broker or mortgage banker, to be licensed as a mortgage broker or mortgage banker pursuant to this chapter or chapter 645E of NRS; ~~or~~

(b) A mortgage broker, qualified employee or mortgage banker who is required by NRS 645B.405 or 645E.290 to be licensed as a mortgage agent ~~††~~; *or*

(c) *A loan processor who is an independent contractor and who is associated with a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016.*

2. The term includes, *but is not limited to*, a residential mortgage loan originator.

3. The term does not include a person who:

(a) Except as otherwise provided in paragraph (b) of subsection 1, is licensed as a mortgage broker or mortgage banker;

(b) Is an owner, general partner, officer or director of a mortgage broker or mortgage banker ~~††~~ *who does not engage in any activity that would otherwise require a license as a mortgage broker or mortgage banker;*

(c) ~~††Performs††~~ *Except as otherwise provided in paragraph (c) of subsection 1, performs* only clerical or ministerial tasks for a mortgage broker ~~††~~ *or mortgage banker; or*

(d) Collects payments and performs related services, including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E *or 645F* of NRS.

Sec. 43. NRS 645B.0132 is hereby amended to read as follows:

645B.0132 "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. ~~††For purposes of this section, "dwelling" has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).††~~

Sec. 44. NRS 645B.015 is hereby amended to read as follows:

645B.015 Except as otherwise provided in NRS 645B.016, *the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant thereto and other applicable law*, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies ~~††~~ , including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in *commercial* loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within ~~15~~ 3 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. A natural person who only offers or negotiates terms of a residential mortgage loan:

(a) With or on behalf of an immediate family member of the person; or

(b) Secured by a dwelling that served as the person's residence.

~~18~~ 9. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

~~19~~ 10. A seller of real property who offers credit secured by a mortgage of the property sold.

11. A nonprofit agency or organization:

(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;

(b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;

(c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;

(d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling; and

(e) Which does not profit from the sale of a dwelling to a borrower.

12. A housing counseling agency approved by the United States Department of Housing and Urban Development.

Sec. 45. NRS 645B.016 is hereby amended to read as follows:

645B.016 Except as otherwise provided in subsection 2 and NRS 645B.690:

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his or her business, including, if applicable, the right to transact mortgage loans, and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~10~~ 12, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker or mortgage agent or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

(a) A license as a mortgage broker or mortgage agent, as applicable, pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than \$10,000 for each violation that the person commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by the person, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

7. A person who is exempt from the requirements of this chapter may file a written application for a certificate of exemption with the Office of the Commissioner for the purposes of complying with the requirements of the Registry or enabling a mortgage agent to comply with the requirements of the Registry.

8. The Commissioner may require an applicant or person described in subsection 7 to submit the information or pay the fee directly to the

Division or, if the applicant or person is required to register or voluntarily registers with the Registry, to the Division through the Registry.

9. An application filed pursuant to subsection 7 does not affect the applicability of this chapter to such an applicant or person.

Sec. 46. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. ***The Commissioner may require the applicant or person to submit the information or pay the fee directly to the Division or, if the applicant or person is required to register or voluntarily registers with the Registry, to the Division through the Registry.*** An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State ~~[-]~~, ***including, without limitation, any office or other place of business located outside this State from which the mortgage broker will conduct business in this State and any office or other place of business which the applicant maintains as a corporate or home office.***

(b) State the name under which the applicant will conduct business as a mortgage broker.

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his or her mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(e) State the length of time the applicant has been engaged in the business of a ***mortgage*** broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(g) Include all information required to complete the application.

(h) ***Unless fingerprints were submitted to the Registry for the person, include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.***

(i) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business *in this State* at one or more branch offices, ~~within this State,~~ the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided ~~in this chapter,~~ *by law*, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter.

(2) Has not been convicted of, or entered *or agreed to enter* a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, *moral turpitude* or money laundering.

(3) Has not made a false statement of material fact on the application.

(4) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license ~~suspended or~~ revoked within the immediately preceding 10 years.

(5) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. *A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State, and the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:*

(a) *Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or*

(b) *Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.*

↪ *The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.*

Sec. 47. NRS 645B.042 is hereby amended to read as follows:

645B.042 1. ~~Except as otherwise provided in NRS 645B.044, as~~ As a condition to doing business in this State, each mortgage broker shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the mortgage broker and all mortgage agents employed by or associated with the mortgage broker.

2. At the time of filing an application for a license as a mortgage agent and at the time of filing an application for the renewal of a license as a mortgage agent, the applicant shall file with the Commissioner proof that the applicant is named as a principal on the corporate surety bond deposited with the Commissioner by the mortgage broker with whom the applicant is associated or employed.

3. The bond must be in substantially the following form:

Know All Persons by These Presents, that, as principal, and, as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645B of NRS, in the sum of, lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as a mortgage broker or mortgage agent by the Commissioner of Mortgage Lending and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his or her agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645B of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645B of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645B of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the (day) of (month) of (year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at, Nevada, this (day) of (month) of (year).

..... (Seal)
 Principal
 (Seal)
 Surety
 By
 Attorney-in-fact

 Nevada Licensed

~~resident agent~~ **Insurance Agent**

4. Each mortgage broker shall deposit a corporate surety bond that complies with the provisions of this section ~~for a substitute form of security that complies with the provisions of NRS 645B.044~~ in the following amounts:

(a) For ~~the principal office,~~ **an annual loan production of \$20,000,000 or less,** \$50,000.

(b) For ~~each branch office,~~ \$25,000.

~~→ The total amount required for the corporate surety bond may not exceed \$75,000, without regard to the number of branch offices, if any.~~ **an annual loan production of more than \$20,000,000, \$75,000.**

5. **Except as otherwise required by federal law or regulation, for the purposes of subsection 4, the Commissioner shall determine the appropriate amount of the surety bond that must be deposited initially by a mortgage broker based upon the expected annual loan production amount and shall determine the appropriate amount of the surety bond annually based upon the actual annual loan production.**

Sec. 48. NRS 645B.046 is hereby amended to read as follows:

645B.046 1. The surety may cancel a bond upon giving 60 days' notice to the Commissioner by certified mail. Upon receipt by the Commissioner of such a notice, the Commissioner immediately shall notify the licensee who is the principal on the bond of the effective date of cancellation of the bond, and that his or her license will be revoked unless the licensee furnishes an equivalent bond ~~for a substitute form of security authorized by NRS 645B.044~~ before the effective date of the cancellation. The notice must be sent to the licensee by certified mail to his or her last address of record filed in the office of the Division.

2. If the licensee does not comply with the requirements set out in the notice from the Commissioner, the license must be revoked on the date the bond is cancelled.

Sec. 49. (Deleted by amendment.)

Sec. 50. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on ~~June 30,~~ **December 31,** unless it is renewed. To renew such a license, the licensee must submit to the Commissioner **on or after November 1 and on or before ~~May 31~~ December 31** of each year ~~[-],~~ **or on a date otherwise specified by the Commissioner by regulation:**

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051; and
- (d) All information required *by the Commissioner or, if applicable, required by the Registry* to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner *on or after November 1 and* on or before ~~May 31~~ **December 31** of any year, *unless a different date is specified by the Commissioner by regulation*, the license is cancelled as of ~~June 30~~ **December 31** of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner ~~+~~ *on or before February 28 of the following year:*

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051;
- (d) Except as otherwise provided in this section, a reinstatement fee of not more than \$200; and
- (e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner *on or after November 1 and* on or before ~~November 30~~ **December 31** of each year ~~+~~ *or on a date otherwise specified by the Commissioner by regulation:*

- (a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and
- (b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner *on or after November 1 and* on or before ~~November 30~~ **December 31** of any year, *unless a different date is specified by the Commissioner by regulation*, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner ~~+~~ *on or before February 28 of the following year:*

- (a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;
- (b) The fee required to renew the certificate of exemption; and
- (c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than \$1,500 for the principal office and not more than \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than \$1,000 for the principal office and not more than \$60 for each branch office.

(c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter are in addition to any fee required to be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee or date set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Commissioner or, if the licensee is required to register or voluntarily registers with the Registry, to the Commissioner through the Registry.

Sec. 51. NRS 645B.080 is hereby amended to read as follows:

645B.080 1. Each mortgage broker shall keep and maintain at all times at each location where the mortgage broker conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage broker at that location. Each mortgage broker shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage broker.

2. Each mortgage broker shall submit to the Commissioner each month a report of the mortgage broker's activity for the previous month. The report must:

(a) Specify the volume of loans arranged by the mortgage broker for the month or state that no loans were arranged in that month;

(b) Include any information required pursuant to NRS 645B.260 or pursuant to the regulations adopted by the Commissioner; and

(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.

3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage brokers handling trust accounts and the requirements for keeping records relating to such accounts.

4. Each mortgage broker who is required to register or voluntarily registers with the Registry shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.

Sec. 52. NRS 645B.085 is hereby amended to read as follows:

645B.085 1. Except as otherwise provided in this section, not later than ~~120~~ **90** days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent *certified* public accountant who holds a ~~permit~~ **license** to ~~engage in the~~ practice ~~of public accounting~~ in this State **or in any other state** that has not been revoked or suspended.

2. ~~The~~ **Unless otherwise prohibited by the Registry, the** Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection **1 or 4** of NRS 645B.175, those accounts must be audited. ~~The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that the public accountant submits the report to the mortgage broker.~~

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 53. NRS 645B.092 is hereby amended to read as follows:

645B.092 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

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

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

4. The Commissioner may disclose any document or information made confidential under subsection 1 to the party against whom the complaint is made, a licensing board or agency, the Registry or any other governmental agency, including, without limitation, a law enforcement agency.

Sec. 54. NRS 645B.095 is hereby amended to read as follows:

645B.095 1. As used in this section, "change of control" means:

(a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage broker; or

(b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage broker.

2. The Commissioner must be notified *in writing* of a transfer of ~~5~~ 10 percent or more of the outstanding voting stock of a mortgage broker *at least 15 days before such a transfer* and must approve a transfer of voting stock of a mortgage broker which constitutes a change of control.

3. The person who acquires stock resulting in a change of control of the mortgage broker shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter *and the Registry, if applicable*, for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 4, the Commissioner shall conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the mortgage broker.

4. A mortgage broker may submit a written request to the Commissioner to waive an investigation pursuant to subsection 3. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

Sec. 55. NRS 645B.165 is hereby amended to read as follows:

645B.165 1. Except as otherwise *permitted by law and as otherwise* provided in subsection 3, the amount of any advance fee, salary, deposit or money paid to a mortgage broker and his or her mortgage agents or any other person to obtain a loan which will be secured by a lien on real property must be placed in escrow pending completion of the loan or a commitment for the loan.

2. The amount held in escrow pursuant to subsection 1 must be released:

(a) Upon completion of the loan or commitment for the loan, to the mortgage broker or other person to whom the advance fee, salary, deposit or money was paid.

(b) If the loan or commitment for the loan fails, to the person who made the payment.

3. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the person making them first signs a written agreement which specifies the estimated

costs by item and the estimated aggregate cost, and which recites that money advanced for costs will not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in NRS 645B.960.

Sec. 56. NRS 645B.170 is hereby amended to read as follows:

645B.170 1. All money paid to a mortgage broker and his or her mortgage agents for payment of taxes or insurance premiums on real property which secures any loan arranged by the mortgage broker must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage broker. Such money, when deposited, is to be designated as an "impound trust account" or under some other appropriate name indicating that the accounts are not the money of the mortgage broker.

2. The mortgage broker has a fiduciary duty to each debtor with respect to the money in an impound trust account.

3. The mortgage broker shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage broker for any money which that person has paid to the mortgage broker for the payment of taxes or insurance premiums on the real property.

4. The mortgage broker shall, upon reasonable notice, account to the Commissioner for all money in an impound trust account.

5. A mortgage broker shall:

(a) Require contributions to an impound trust account in an amount reasonably necessary to pay the obligations as they become due.

(b) ***Undertake an annual review of an impound trust account.***

(c) Within 30 days after the completion of the annual review of an impound trust account, notify the debtor:

(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 debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage broker shall maintain the excess money in the account.

↪ This subsection does not prohibit a mortgage broker from requiring additional amounts to be paid into an impound trust account to recover a deficiency that exists in the account.

6. A mortgage broker shall not make payments from an impound trust account in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent.

Sec. 57. NRS 645B.186 is hereby amended to read as follows:

645B.186 1. If a licensee or a relative of the licensee is licensed as, conducts business as or holds a controlling interest or position in:

(a) A construction control;

(b) An escrow agency or escrow agent; or

(c) A title agent, a title insurer or an escrow officer of a title agent or title insurer,

↪ the licensee shall fully disclose his or her status as, connection to or relationship with the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer to each investor, and the licensee shall not require, as a condition to an investor acquiring ownership of or a beneficial interest in a loan secured by a lien on real property, that the investor transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer or that the investor authorize the licensee to transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer on behalf of the investor.

2. For the purposes of this section, a person shall be deemed to hold a controlling interest or position if the person:

(a) Owns or controls a majority of the voting stock or holds any other controlling interest, directly or indirectly, that gives the person the power to direct management or determine policy; or

(b) Is a partner, officer, director or trustee.

3. As used in this section, "licensee" means:

(a) A person who is licensed as a mortgage broker *or mortgage agent* pursuant to this chapter; and

(b) Any general partner, officer or director of such a person.

Sec. 58. NRS 645B.305 is hereby amended to read as follows:

645B.305 A mortgage broker shall ensure that each loan secured by a lien on real property for which he or she engages in activity as a mortgage broker ~~†~~

~~1. Includes~~ **includes** a disclosure:

~~{(a)}~~ 1. Describing, in a specific dollar amount, all fees earned by the mortgage broker;

~~{(b)}~~ 2. Explaining which party is responsible for the payment of the fees described in ~~paragraph (a);~~ **subsection 1**; and

~~{(c)}~~ 3. Explaining the probable impact the fees described in ~~paragraph (a)~~ **subsection 1** may have on the terms of the loan, including, without limitation, the interest rates.

~~{2. If a private investor has acquired a beneficial interest in the loan, includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.}~~

Sec. 59. NRS 645B.307 is hereby amended to read as follows:

645B.307 A mortgage broker shall ensure that each loan secured by a lien on real property for which he or she engages in activity as a mortgage broker includes ~~the~~ :

1. *If the mortgage broker is not registered with the Registry, the license number of the mortgage broker ~~†~~ ; or*

2. *Any identifying number issued by the Registry.*

Sec. 60. NRS 645B.400 is hereby amended to read as follows:

645B.400 A person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the activities of a mortgage agent unless the person ~~has~~ :

1. *Has* a license as a mortgage agent issued pursuant to NRS 645B.410.
2. *Is an employee of or associated with a mortgage broker or mortgage banker.*
3. *If the person is required to register with the Registry, is registered with and provides any identifying number issued by the Registry.*

Sec. 61. NRS 645B.410 is hereby amended to read as follows:

645B.410 1. To obtain a license as a mortgage agent, a person must:

- (a) Be a natural person;
- (b) File a written application for a license as a mortgage agent with the Office of the Commissioner;
- (c) Comply with the applicable requirements of this chapter; ~~and~~
- (d) Pay an application fee set by the Commissioner of not more than \$185 ~~;~~ *and*

(e) *Be:*

- (1) *Employed by, or have received an offer of employment from, a mortgage broker;*
- (2) *Employed by, or have received an offer of employment from, a mortgage banker;*
- (3) *Associated with or employed by, or have received an offer of a contract with or an offer of employment from, a person who holds a certificate of exemption pursuant to NRS 645B.016; or*
- (4) *A loan processor who is not an employee and who is associated with, or has received an offer of a contract with, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016.*

2. An application for a license as a mortgage agent must:

- (a) State the name and residence address of the applicant;
- (b) Include a provision by which the applicant gives written consent to *the Division and, if applicable, the Registry for* an investigation of his or her credit history, criminal history and background;
- (c) ~~Include~~ *Unless fingerprints were submitted to the Registry, include* a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;
- (d) ~~If not licensed as a mortgage broker or mortgage banker pursuant to this chapter or chapter 645E of NRS, include~~ *Include* a verified statement from the mortgage broker, ~~or~~ mortgage banker *or person who holds a certificate of exemption pursuant to NRS 645B.016* with whom the applicant will be associated *or employed* that expresses the intent of that mortgage broker, ~~or~~ mortgage banker *or exempt person to employ or*

associate the applicant with the mortgage broker, ~~or~~ mortgage banker *or exempt person* and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner, ~~or~~ by an order of the Commissioner ~~+~~ *or, if applicable, by the Registry*. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided ~~in this chapter,~~ *by law*, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter ~~+~~, *other applicable law and, if applicable, the Registry*; and

(b) The applicant:

(1) Has not been convicted of, or entered *or agreed to enter* a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, ~~or~~ money laundering ~~+~~ *or moral turpitude*;

(2) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or had a financial services license ~~suspended or~~ revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his or her application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter.

4. Money received by the Commissioner pursuant to this section is in addition to any fee required to be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. *The Commissioner may require the submission of an item or the payment of a fee required by this section directly to the Commissioner or, if the person submitting the item or fee is required to register or voluntarily registers with the Registry, to the Commissioner through the Registry.*

Sec. 62. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires ~~1 year after the date the license is issued,~~ *each year on December 31*, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must *continue to meet the requirements of subsection 3 of NRS 645B.410 and must* submit to the Commissioner ~~each~~

~~year,~~ ***on or after November 1 and on or before the date the license expires; December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:***

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than \$170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner ~~each year~~ ***on or after November 1 and on or before the date the license expires, December 31 of any year, unless a different date is specified by the Commissioner by regulation,*** the license is cancelled ~~as of December 31 of that year.~~ The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner ~~as of December 31 of that year.~~ ***on or before February 28 of the following year:***

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of \$75.

3. ~~To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of \$10.~~

~~4.~~ To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of \$10.

~~5.~~ 4. Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

~~6.~~ The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.

~~7.~~ 5. ***The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.***

6. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 63. NRS 645B.450 is hereby amended to read as follows:

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one ***licensed or registered mortgage broker or mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** at the same time.

2. A mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker , *mortgage banker or exempt person* as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410. ***Before allowing a mortgage agent to act on its behalf, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016 must:***

(a) Enter its sponsorship of the mortgage agent with the Registry; or

(b) If the mortgage agent is not required to be registered with the Registry, notify the Division of its sponsorship of the mortgage agent.

3. If a mortgage agent terminates his or her association or employment with a mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* for any reason, the mortgage broker , *mortgage banker or exempt person* shall, not later than the third business day following the date of termination:

~~(a) Deliver~~ ***Remove its sponsorship of the mortgage agent from the Registry; or***

(b) If the mortgage agent is not required to be registered with the Registry, deliver to the Division and to the mortgage agent for send by certified mail to at the last known residence address of the mortgage agent a written statement which ~~advises the mortgage agent that the termination is being reported to the Division; and~~

~~(b) Deliver or send by certified mail to the Division:~~

~~(1) The license or license number of the mortgage agent;~~

~~(2) A written statement of the circumstances surrounding the termination; and~~

~~(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).~~ ***includes the name, address and license number of the mortgage agent and a statement of the circumstances of the termination.***

Sec. 64. NRS 645B.490 is hereby amended to read as follows:

645B.490 ***Except as otherwise required by the Registry for persons who are required to register or voluntarily register with the Registry:***

1. Any mortgage broker or mortgage agent licensed under the provisions of this chapter who is called into military service of the United States shall, at his or her request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.

2. At any time within 6 months after termination of such service, if the mortgage broker or mortgage agent complies with the provisions of subsection 1, the mortgage broker or mortgage agent may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or

645B.430, and the mortgage broker or mortgage agent is not required to make payment of the renewal fee for the current year.

3. Any mortgage broker or mortgage agent seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his or her honorable discharge or certificate of satisfactory service to the Commissioner.

Sec. 65. NRS 645B.600 is hereby amended to read as follows:

645B.600 1. A person may file with the Commissioner a complaint alleging that another person has violated a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. A complaint filed pursuant to this section must:

- (a) Be in writing;
- (b) Be signed by the person filing the complaint or the ~~authorized representative~~ *designee* of the person filing the complaint;
- (c) Contain an address and a telephone number for the person filing the complaint or the ~~authorized representative~~ *designee* of the person filing the complaint;
- (d) Describe the nature of the alleged violation in as much detail as possible;
- (e) Include as exhibits copies of all documentation supporting the complaint; and
- (f) Include any other information or supporting materials required by the regulations adopted by the Commissioner or by an order of the Commissioner.

Sec. 66. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$25,000 if the applicant:

- (a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;
- (b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or
- (c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his or her application for a license or during the course of the investigation of his or her application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage broker's license, or may do both, if the mortgage broker, whether or not acting as such:

- (a) Is insolvent;
- (b) Is grossly negligent or incompetent in performing any act for which the mortgage broker is required to be licensed pursuant to the provisions of this chapter;
- (c) Does not conduct his or her business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;
- (d) Is in such financial condition that the mortgage broker cannot continue in business with safety to his or her customers;
- (e) Has made a material misrepresentation in connection with any transaction governed by this chapter;
- (f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;
- (g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by the mortgage broker, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;
- (h) Has failed to account to persons interested for all money received for a trust account;
- (i) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;
- (j) Has been convicted of, or entered *or agreed to enter* a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, *moral turpitude* or money laundering.
- (k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;
- (l) Has failed to satisfy a claim made by a client which has been reduced to judgment;
- (m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;
- (n) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;
- (o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered *or agreed to enter* a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, *moral turpitude* or money laundering; or

(2) Had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration ~~[suspended or]~~ revoked within the immediately preceding 10 years;

(t) Has violated NRS 645C.557; *or*

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS. ~~;~~

~~(v) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.]~~

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage agent's license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which the mortgage agent is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by the mortgage agent, would have rendered the

mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered *or agreed to enter* a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, *moral turpitude* or money laundering.

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has violated NRS 645C.557;

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom the mortgage agent is associated or by whom he or she is employed; or

(k) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 67. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; ~~or~~

(b) *The person was required to be registered with the Registry and the person was not so registered; or*

(c) The person's license was suspended or revoked pursuant to this chapter,

↪ the Commissioner shall impose upon the person an administrative fine of not more than \$50,000 for each violation and, if the person has a license, the Commissioner may suspend or revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his or her books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than ~~10,000~~ **\$25,000** for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

3. If a mortgage broker:

(a) Makes or offers for sale in this State any investments in promissory notes secured by liens on real property; and

(b) Receives the lowest possible rating on two consecutive annual or biennial examinations pursuant to NRS 645B.060,

↪ the Commissioner shall suspend or revoke the license of the mortgage broker.

Sec. 68. NRS 645B.955 is hereby amended to read as follows:

645B.955 1. ~~The holder of~~ ***A person who engages in an activity for which*** a license as a mortgage broker or mortgage agent ~~may be~~ ***is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required*** by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 69. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

"Nationwide Mortgage Licensing System and Registry" or "Registry" has the meaning ascribed to it in NRS 645B.0128.

Sec. 70. NRS 645E.010 is hereby amended to read as follows:

645E.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645E.100, inclusive, ***and section 69 of this act*** have the meanings ascribed to them in those sections.

Sec. 71. NRS 645E.040 is hereby amended to read as follows:

645E.040 "Commercial property" means any real property which is located in this state and which is ~~not~~ ***neither*** used ~~for a residential dwelling or dwellings intended for occupancy by four or fewer families.~~ ***as a dwelling nor upon which a dwelling is constructed or intended to be constructed. For the purposes of this section, "dwelling" has the meaning ascribed to it in section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).***

Sec. 72. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, ***the Secure and Fair Enforcement for Mortgage Licensing Act of 2008,***

12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant thereto or other applicable law, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in *commercial* loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within ~~15~~ 3 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. A natural person who only offers or negotiates terms of a residential mortgage loan:

(a) With or on behalf of an immediate family member of the person; or

(b) Secured by a dwelling that served as the person's residence.

~~18.1~~ 9. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

~~19.1~~ 10. A seller of real property who offers credit secured by a mortgage of the property sold.

11. A nonprofit agency or organization:

(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;

(b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;

(c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;

(d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling; and

(e) Which does not profit from the sale of a dwelling to a borrower.

12. A housing counseling agency approved by the United States Department of Housing and Urban Development.

Sec. 73. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. Except as otherwise provided in subsection 2, a person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

- (a) File a written application for a certificate of exemption with the Office of the Commissioner;
- (b) Pay the fee required pursuant to NRS 645E.280;
- (c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150; and
- (d) Provide evidence to the Commissioner that the person is duly licensed to conduct his or her business, including, if applicable, the right to transact mortgage loans, and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~10~~ 12, inclusive, of NRS 645E.150 to:

- (a) File a written application for a certificate of exemption with the Office of the Commissioner;
- (b) Pay the fee required pursuant to NRS 645E.280; and
- (c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

- (a) A license as a mortgage banker pursuant to this chapter; or
- (b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than \$10,000 for each violation that he or she commits, if the person:

- (a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;
- (b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him or her, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

7. A person who is exempt from the requirements of this chapter may file a written application for a certificate of exemption with the Office of the Commissioner for the purposes of complying with the requirements of the Registry or enabling a mortgage agent to comply with the requirements of the Registry.

8. The Commissioner may require an applicant or person described in subsection 7 to submit the information or pay the fee directly to the Division or, if the applicant or person is required to register or voluntarily registers with the Registry, to the Division through the Registry.

9. An application filed pursuant to subsection 7 does not affect the applicability of this chapter to such an applicant or person.

Sec. 74. NRS 645E.170 is hereby amended to read as follows:

645E.170 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~+~~ **only for a loan secured by commercial property.**

2. The Commissioner may grant the exemption if the Commissioner finds that:

(a) The making of the loan would not be detrimental to the financial condition of the lender or the debtor;

(b) The lender or the debtor has established a record of sound performance, efficient management, financial responsibility and integrity;

(c) The making of the loan is likely to increase the availability of capital for a sector of the state economy; and

(d) The making of the loan is not detrimental to the public interest.

3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his or her decision to grant, deny or revoke an exemption.

Sec. 75. NRS 645E.200 is hereby amended to read as follows:

645E.200 1. A person who wishes to be licensed as a mortgage banker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645E.280. An application for a license as a mortgage banker must:

(a) Be verified.

(b) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage banker will conduct business in this State, including, without limitation, any office or other place of business located outside this State from which the mortgage banker will conduct business in this State ~~+~~ **and**

any office or other place of business which the applicant maintains as a corporate or home office.

(c) State the name under which the applicant will conduct business as a mortgage banker.

(d) If the applicant is not a natural person, list the name, residence address and business address of each person who will have an interest in the mortgage banker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(e) Indicate the general plan and character of the business.

(f) State the length of time the applicant has been engaged in the business of a mortgage banker.

(g) Include a financial statement of the applicant.

(h) ***Include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.***

(i) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage banker will conduct business in this State at one or more branch offices, the mortgage banker must apply for a license for each such branch office.

3. Except as otherwise provided ~~in this chapter,~~ ***by law***, the Commissioner shall issue a license to an applicant as a mortgage banker if:

(a) The application ***is verified by the Commissioner and*** complies with the requirements of this chapter ~~};~~, ***other applicable law and, if applicable, the Registry;*** and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

~~(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage banker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.~~

~~—(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude.~~

~~—(3) Has not made a false statement of material fact on his or her application.~~

~~—(4) Has not had a license that was issued pursuant to the provisions of this chapter or chapter 645B of NRS suspended or revoked within the 10 years immediately preceding the date of application.~~

~~—(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of application.~~

~~(6)~~ *demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter. For the purposes of this subparagraph, the factors considered in determining whether a person has demonstrated financial responsibility include, without limitation:*

(I) Whether the person's personal credit history indicates any adverse material items, including, without limitation, liens, judgments, disciplinary action, bankruptcies, foreclosures or failures to comply with court-approved payment plans;

(II) The circumstances surrounding any adverse material items in the person's personal credit history; and

(III) Any instance of fraud, misrepresentation, dishonest business practices, the mishandling of trust funds or other types of comparable behavior.

(2) Has not been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering.

(3) Has not made a false statement of material fact on the application.

(4) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license revoked within the immediately preceding 10 years.

(5) Has not violated any provision of this chapter or chapter 645B of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. If an applicant is a partnership, corporation or unincorporated association, the Commissioner may refuse to issue a license to the applicant if any member of the partnership or any officer or director of the corporation or unincorporated association has committed any act or omission that would be cause for refusing to issue a license to a natural person.

5. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State and if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any

investigation or examination made at the office or place of business located outside this State.

↪ The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

Sec. 76. NRS 645E.280 is hereby amended to read as follows:

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner *on or after November 1 and* on or before December 31 of each year ~~†~~, *or on a date otherwise specified by the Commissioner by regulation:*

(a) An application for renewal that complies with the requirements of this chapter; ~~and~~

(b) The fee required to renew the license pursuant to this section ~~†~~; *and*

(c) *All information required by the Commissioner or, if applicable, required by the Registry to complete the renewal.*

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner *on or after November 1 and* on or before December 31 of any year, *unless a different date is specified by the Commissioner by regulation*, the license is cancelled ~~† as of December 31 of that year~~. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner ~~†~~ *on or before February 28 of the following year:*

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; ~~and~~

(c) ~~†~~ *Except as otherwise provided in this section, a* reinstatement fee of not more than \$200 ~~†~~; *and*

(d) *All information required to complete the reinstatement.*

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner *on or after November 1 and* on or before December 31 of each year ~~†~~, *or on a date otherwise specified by the Commissioner by regulation:*

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner *on or after November 1 and* on or before December 31 of any year, *unless a different date is specified by the Commissioner by regulation*, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner ~~†~~ *on or before February 28 of the following year:*

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) ~~1A1~~ *Except as otherwise provided in this section, a* reinstatement fee of not more than \$100.

5. ~~1A1~~ *Except as otherwise provided in this section, a* person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, not more than \$1,500 for the principal office and not more than \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than \$1,000 for the principal office and not more than \$60 for each branch office.

(c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

6. ~~1A1~~ *Except as otherwise provided in this section, a* person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter *are in addition to any fee required to be paid to the Registry and* must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. *The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.*

Sec. 77. NRS 645E.290 is hereby amended to read as follows:

645E.290 1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a ~~residential mortgage~~ loan originator or who supervises a mortgage agent who engages in activities as a ~~residential mortgage~~ loan originator, and any employee or independent contractor of a mortgage banker who engages in activities as a ~~residential~~

~~mortgage~~ loan originator, must be licensed as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.

2. As used in this section ~~["residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.]~~:

(a) "Clerical or ministerial tasks" means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a loan.

(b) "Loan originator" means a natural person who takes a loan application or offers or negotiates terms of a loan for compensation or other pecuniary gain. The term does not include:

(1) A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; or

(2) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D).

Sec. 78. NRS 645E.291 is hereby amended to read as follows:

645E.291 1. A mortgage banker shall exercise reasonable supervision over the activities of his or her mortgage agents and must also be licensed as a mortgage agent if required pursuant to NRS 645E.290. Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for the mortgage agents;

(b) The establishment of a system to review, oversee and inspect the activities of the mortgage agents, including, without limitation:

(1) Transactions handled by the mortgage agents pursuant to this chapter;

(2) Communications between the mortgage agents and a party to such a transaction;

(3) Documents prepared by the mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by the mortgage agents of any fee, deposit or money paid to the mortgage banker or the mortgage agents or held in trust by the mortgage banker or the mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of the mortgage agents.

2. The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage banker when the mortgage banker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage ~~broker~~ **banker** has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 79. NRS 645E.350 is hereby amended to read as follows:

645E.350 1. Each mortgage banker shall keep and maintain at all times at each location where the mortgage banker conducts business in this State complete and suitable records of all mortgage transactions made by the mortgage banker at that location. Each mortgage banker shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage banker.

2. Each mortgage banker shall submit to the Commissioner each month a report of the mortgage banker's activity for the previous month. The report must:

(a) Specify the volume of loans made by the mortgage banker for the month or state that no loans were made in that month;

(b) Include any information required pursuant to the regulations adopted by the Commissioner; and

(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.

3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage bankers handling trust accounts and the requirements for keeping records relating to such accounts.

4. A licensee who operates outside this State an office or other place of business which is licensed pursuant to this chapter shall:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

↪ The licensee must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

5. *Each mortgage banker who is required to register or voluntarily registers with the Registry shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.*

Sec. 80. NRS 645E.360 is hereby amended to read as follows:

645E.360 1. Except as otherwise provided in this section, not later than ~~120~~ **90** days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage banker by an independent **certified** public accountant who holds a ~~permit~~ **license** to

~~engage in the~~ practice ~~of public accounting~~ in this State *or in any other state* that has not been revoked or suspended.

2. ~~The~~ ***Unless otherwise prohibited by the Registry, the*** Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. ~~The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he or she submits the report to the mortgage banker.~~

4. ***The Commissioner may require the financial statement to be submitted directly to the Commissioner or, if the mortgage banker that submits the financial statement is required to register or voluntarily registers with the Registry, to the Division through the Registry.***

5. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 81. NRS 645E.375 is hereby amended to read as follows:

645E.375 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

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

3. ***The Commissioner may disclose any document or information made confidential under subsection 1 to the party against whom the complaint is made, a licensing board or agency, the Registry or any other governmental agency, including, without limitation, a law enforcement agency.***

Sec. 82. NRS 645E.390 is hereby amended to read as follows:

645E.390 1. The Commissioner must be notified of a transfer of ~~5~~ **10** percent or more of the outstanding voting stock of a mortgage banker and must approve a transfer of voting stock of a mortgage banker which constitutes a change of control.

2. The person who acquires stock resulting in a change of control of the mortgage banker shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter ***and of the Registry, if applicable***, for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 3, the Commissioner shall conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, the Commissioner

may forbid the applicant from participating in the business of the mortgage banker.

3. A mortgage banker may submit a written request to the Commissioner to waive an investigation pursuant to subsection 2. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

4. As used in this section, "change of control" means:

(a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage banker; or

(b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage banker.

Sec. 83. NRS 645E.420 is hereby amended to read as follows:

645E.420 1. Except as otherwise *permitted by law and as otherwise* provided in subsection 3, the amount of any advance fee, salary, deposit or money paid to any mortgage banker or other person to obtain a loan secured by a lien on real property must be placed in escrow pending completion of the loan or a commitment for the loan.

2. The amount held in escrow pursuant to subsection 1 must be released:

(a) Upon completion of the loan or commitment for the loan, to the mortgage banker or other person to whom the advance fee, salary, deposit or money was paid.

(b) If the loan or commitment for the loan fails, to the person who made the payment.

3. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the person making them first signs a written agreement which specifies the estimated costs by item and the estimated aggregate cost, and which recites that money advanced for costs will not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in NRS 645E.960.

Sec. 84. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than ~~+\$10,000~~ **\$25,000** if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and

filing his or her application for a license or during the course of the investigation of his or her application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than ~~[\$10,000,]~~ **\$25,000**, may suspend, revoke or place conditions upon the license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which the licensee is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his or her business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that the licensee cannot continue in business with safety to his or her customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by the licensee, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered *or agreed to enter* a plea of nolo contendere to, a felony ~~relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;~~ **in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering;**

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) Has violated NRS 645C.557;

(p) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use; or

(q) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

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

Sec. 85. NRS 645E.690 is hereby amended to read as follows:

645E.690 1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

↪ the Commissioner shall impose upon the person an administrative fine of not more than \$50,000 for each violation and, if the person has a license, the Commissioner ~~shall~~ **may suspend or** revoke it.

2. If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his or her books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage banker an administrative fine of not more than ~~10,000~~ **\$25,000** for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 86. NRS 645E.955 is hereby amended to read as follows:

645E.955 1. ~~The holder of~~ **A person who engages in an activity for which** a license as a mortgage banker ~~may be~~ **is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to**

this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 87. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 88, ~~89~~ **88.5** and 90 of this act.

Sec. 88. *"Residence" means a structure that contains not more than four individual units designed or intended for occupancy regardless of whether such a structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home or trailer used for occupancy.*

Sec. 88.5. *A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall not claim, demand, charge, collect or receive any compensation before a homeowner has executed a written agreement with the lender or servicer incorporating the offer of mortgage assistance obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.*

Sec. 89. (Deleted by amendment.)

Sec. 90. 1. *Any person authorized to engage in activities as a residential mortgage loan originator on behalf of an installment loan lender licensed under chapter 675 of NRS shall obtain and maintain a license as a mortgage agent.*

2. *As used in this section:*

(a) *"Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and*

(b) *"Residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.*

Sec. 91. NRS 645F.280 is hereby amended to read as follows:

645F.280 1. The Commissioner shall establish by regulation rates to be paid by ~~reserow agencies, mortgage agents, mortgage brokers, mortgage bankers, persons who perform any covered service for compensation, foreclosure consultants and loan modification consultants~~ **all persons licensed by the Commissioner or the Division** for supervision and examinations by the Commissioner or the Division.

2. In establishing a rate pursuant to subsection 1, the Commissioner shall consider:

- (a) The complexity of the various examinations to which the rate applies;
- (b) The skill required to conduct the examinations;
- (c) The expenses associated with conducting the examination and preparing a report; and

(d) Any other factors the Commissioner deems relevant.

Sec. 92. NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each ~~of~~:

~~(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;~~
~~(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS;~~
~~(c) Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS;~~

~~(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS;~~
 and

~~(e) Person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant that is supervised pursuant to this chapter.~~ **person licensed by the Commissioner or the Division.**

2. The Commissioner shall determine the total amount of all assessments to be collected from the ~~entities~~ **persons** identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from ~~an entity~~ **a person** for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each ~~entity~~ **person** identified in subsection 1 an assessment that is based on:

- (a) An equal basis; or
- (b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by ~~an entity~~ **a person** identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 93. NRS 645F.291 is hereby amended to read as follows:

645F.291 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

- (a) Compel the attendance of any person by subpoena.
- (b) **Compel the production of any books, records or papers by subpoena.**
- (c) Administer oaths.

~~(c)~~ **(d)** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the

Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 94. NRS 645F.294 is hereby amended to read as follows:

645F.294 1. Except as otherwise provided in section 1512 of Public Law 110-289, *12 U.S.C. § 5111*, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal *law or the* laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.

2. Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.

3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against, ↪ residential mortgage loan originators included in the Registry for access by the public.

Sec. 95. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, *and ~~section~~ sections 88 and 88.5 of this act*, unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, *and section 88 of this act* have the meanings ascribed to them in those sections.

Sec. 96. NRS 645F.310 is hereby amended to read as follows:

645F.310 "Covered service" includes, without limitation:

1. Financial counseling ~~††~~ *to a homeowner*, including, without limitation, debt counseling and budget counseling.

2. Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage or other lien on a residence in foreclosure.

3. Contacting a creditor on behalf of a homeowner.

4. Arranging or attempting to arrange for an extension of the period within which a homeowner may cure a default and reinstate an obligation pursuant to a note, mortgage or deed of trust.

5. Arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale ~~of a residence in foreclosure.~~

6. Advising *a homeowner regarding* the filing of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court.

7. Giving any advice, explanation or instruction to a homeowner which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a mortgage or other lien on ~~the~~ a residence, ~~in foreclosure,~~ the full satisfaction of the obligation, or the postponement or avoidance of a foreclosure sale.

8. Arranging or conducting, or attempting to arrange or conduct, for a homeowner any forensic loan audit or review or other audit or review of loan documents.

9. Arranging or attempting to arrange for a homeowner the purchase by a third party of the homeowner's mortgage loan.

10. Arranging or attempting to arrange for a homeowner a reduction of the principal of the homeowner's mortgage loan when such a mortgage loan is held by or serviced by a third party.

11. Providing the services of a loan modification consultant.

12. Providing the services of a foreclosure consultant.

Sec. 97. NRS 645F.370 is hereby amended to read as follows:

645F.370 "Residence in foreclosure" means residential real property consisting of not more than four family dwelling units ~~one of *a residence* which the homeowner occupies as his or her principal place of residence,~~ and against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080.

Sec. 98. NRS 645F.380 is hereby amended to read as follows:

645F.380 ~~The~~

1. Except as otherwise provided in subsection 2, the provisions of NRS 645F.300 to 645F.450, inclusive, ~~and *section*~~ **sections 88 and 88.5 of this act** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

~~He~~ **(a)** An attorney at law rendering services in the performance of his or her duties as an attorney at law, ~~and his or her employees,~~ unless the attorney at law ~~is for his or her employees are~~ rendering those services in the course and scope of his or her employment by or other affiliation with a

~~mortgage broker or mortgage agent;~~ **person who is licensed or required to be licensed pursuant to NRS 645F.390;**

~~12-~~ **(b)** A provider of debt-management services registered pursuant to chapter 676A of NRS while providing debt-management services pursuant to chapter 676A of NRS;

~~13-~~ **(c)** A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank ~~1-~~ **System;**

~~14-~~ **(d)** A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

~~15-~~ **(e)** Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

~~16-~~ **(f)** A person, other than a person who is licensed pursuant to NRS 645F.390, who is licensed pursuant to chapter 692A or any chapter of title 54 of NRS while acting under the authority of the license;

~~17-~~ **(g)** A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

~~18-~~ **(h)** A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

2. The provisions of section 88.5 of this act apply to an attorney at law who renders services in the performance of his or her duties as an attorney at law regardless of whether the attorney at law renders those services in the course and scope of his or her employment by or other affiliation with a person who is licensed or required to be licensed pursuant to NRS 645F.390.

Sec. 99. NRS 645F.390 is hereby amended to read as follows:

645F.390 1. The Commissioner shall adopt ~~separate~~ regulations for the licensing of:

- (a) A person who performs any covered service for compensation;
- (b) A foreclosure consultant; and
- (c) A loan modification consultant.

2. The regulations must prescribe, without limitation:

- (a) The method and form of application for a license;
- (b) The method and form of the issuance, denial or renewal of a license;
- (c) The grounds and procedures for the revocation, suspension or nonrenewal of a license; ~~and~~
- (d) The imposition of reasonable fees for application and licensure ~~††~~ ;
and

(e) *Any provisions necessary to comply with the provisions of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Public Law 110-289, 12 U.S.C. §§ 5101 et seq., including registration with the Registry, and the Mortgage Assistance Relief Services Rule, 16 C.F.R. Part 322, as promulgated by the Federal Trade Commission.*

3. *An application for a license pursuant to this section must include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the person who performs any covered service as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

Sec. 100. NRS 645F.392 is hereby amended to read as follows:

645F.392 1. A person who performs any covered service for compensation ~~†, a foreclosure consultant and a loan modification consultant~~ shall execute a written contract with a homeowner before providing any covered service.

2. The Commissioner shall adopt regulations describing the information that must be contained in a written contract for covered services.

Sec. 101. NRS 645F.394 is hereby amended to read as follows:

645F.394 ~~†1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:~~

~~—(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;~~

~~—(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and~~

~~—(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant until the completion of every covered service as agreed upon in the contract for covered services.~~

~~—2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The~~

~~records must clearly indicate the date and from whom he or she received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.~~

~~3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he or she maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.~~

~~4. As used in this section, "completion of every covered service" means:~~

~~(a) Successful results with respect to what the performance of each covered service was intended to yield for the homeowner, as described in the contract for covered services; or~~

~~(b) If the performance of one or more covered service has an unsuccessful result with respect to what the performance of that covered service was intended to yield for the homeowner, a showing that every reasonable effort was made, under the particular circumstances, to obtain successful results,~~

~~as verified in a written statement provided to the homeowner.} *A person licensed or required to be licensed pursuant to NRS 645F.390 may not request or receive payment of any fee or other compensation from a homeowner until such a person has fully complied with the provisions of the Mortgage Assistance Relief Services Rule, 16 C.F.R. Part 322, and any other applicable federal law or regulation.*~~

Sec. 102. NRS 645F.400 is hereby amended to read as follows:

645F.400 1. A person who performs any covered service ~~{ a foreclosure consultant and a loan modification consultant }~~ shall not:

(a) Claim, demand, charge, collect or receive any compensation except in accordance with NRS 645F.394.

(b) Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

(c) Take ***or acquire, directly or indirectly***, any wage assignment, lien on real or personal property, assignment of a homeowner's equity ~~{ for other }~~, ***any*** interest in a residence ~~{ in foreclosure }~~ or other security for the payment of compensation. Any such ***assignment or*** security is void and unenforceable.

(d) Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

(e) ~~Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.~~

~~(f)~~ Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

2. In addition to any other penalty, a violation of any provision of this section shall be deemed to constitute mortgage lending fraud for the purposes of NRS 205.372.

Sec. 103. NRS 645F.410 is hereby amended to read as follows:

645F.410 1. In addition to any other remedy or penalty, the Commissioner may, after giving notice and opportunity to be heard, impose an administrative penalty of not more than ~~10,000 on a foreclosure consultant~~ **\$25,000 on any person licensed or required to be licensed pursuant to NRS 645F.390** who violates any provision of ~~NRS 645F.400~~ **this chapter or any regulation adopted pursuant thereto or any other applicable law.**

2. Except as otherwise provided in this section, all money collected from administrative penalties imposed pursuant to this section must be deposited in the State General Fund.

3. The money collected from an administrative penalty may be deposited with the State Treasurer for credit to the Fund for Mortgage Lending created by NRS 645F.270 if:

(a) The person pays the administrative penalty without exercising the right to a hearing to contest the penalty; or

(b) The administrative penalty is imposed in a hearing conducted by a hearing officer or panel appointed by the Commissioner.

4. The Commissioner may appoint one or more hearing officers or panels and may delegate to those hearing officers or panels the power of the Commissioner to conduct hearings, determine violations and impose the penalties authorized by this section.

5. If money collected from an administrative penalty is deposited in the State General Fund, the Commissioner may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 104. NRS 645F.420 is hereby amended to read as follows:

645F.420 1. A homeowner who is injured as a result of a ~~foreclosure consultant's~~ **person's** violation of a provision of NRS 645F.400 may bring an action against the ~~foreclosure consultant~~ **person** to recover damages caused by the violation, together with reasonable attorney's fees and costs.

2. If the homeowner prevails in the action, the court may award such punitive damages as may be determined by a jury, or by a court sitting without a jury, but in no case may the punitive damages be less than one and one-half times the amount awarded to the homeowner as actual damages.

Sec. 105. NRS 658.210 is hereby amended to read as follows:

658.210 1. ~~Any~~ *Except as otherwise provided in section 90 of this act, any* person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.

Sec. 106. NRS 645B.044 is hereby repealed.

Sec. 106.5. 1. The Commissioner shall issue a provisional license as an escrow agency or an escrow agent, as applicable, to a person if, on or before October 1, 2011, the person submits to the Commissioner:

(a) For a provisional license as an escrow agency, proof satisfactory to the Commissioner that the person is a construction control and that the majority of the business conducted by the person is business in which the person serves as a construction control;

(b) For a provisional license as an escrow agent, proof satisfactory to the Commissioner that the person is a natural person who engages in activity related to the business of a construction control on behalf of a construction control who holds a provisional license as an escrow agency or holds a license as an escrow agency;

(c) A complete application for a license as an escrow agency or an escrow agent, as applicable, which complies with the requirements of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto, accompanied by all other documentation and materials required of an applicant for a license as an escrow agency or an escrow agent, as applicable, by the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto, except for regulations adopted pursuant to NRS 645A.021;

(d) For a provisional license as an escrow agency, a bond which complies with the requirements of NRS 645A.041, as amended by section 6 of this act, or a substitute for that bond which complies with the requirements of NRS 645A.042; and

(e) A statement satisfactory to the Commissioner, signed by the person, that the person understands the provisions of this section including, without limitation, the provisions governing the expiration of a provisional license.

2. Upon receipt of documentation and materials from a person pursuant to subsection 1, the Commissioner shall:

(a) Determine whether the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agency or an escrow agent;

(b) If the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agency, issue to the person a provisional license as an escrow agency;

(c) If the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agent, issue to the person a provisional license as an escrow agent; and

(d) Without regard to whether the Commissioner issues a provisional license as an escrow agency or an escrow agent to the person pursuant to paragraph (b) or (c), if the person has submitted all documentation and materials required by paragraph (c) of subsection 1 to apply for a license as an escrow agency or an escrow agent, process the materials as an application for a license as an escrow agency or an escrow agent, as applicable, in accordance with the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto. Notwithstanding any provisions of this paragraph to the contrary, if the Commissioner issues a provisional license as an escrow agency or an escrow agent to the person pursuant to paragraph (b) or (c), the Commissioner may cease any processing of the person's application for a license as an escrow agency or an escrow agent, as applicable, upon expiration of the provisional license pursuant to the provisions of this section.

3. Except as otherwise provided in this section, a provisional license as an escrow agency or an escrow agent shall be deemed to be a license as an escrow agency or an escrow agent, as applicable.

4. A provisional license expires automatically:

(a) Notwithstanding the provisions of subsection 7, upon receipt by the person of written notice from the Commissioner that the Commissioner has denied, for any reason, the person's application for a license as an escrow agency or an escrow agent, as applicable;

(b) Upon the issuance to the person by the Commissioner of a license as an escrow agency or an escrow agent, as applicable;

(c) Ninety days after the date of issuance of the provisional license if the holder of the provisional license:

(1) Is a natural person who is required by NRS 645A.021 and any regulations adopted pursuant thereto to complete educational prerequisites to obtain a license as an escrow agency or an escrow agent, as applicable;

(2) Has not completed the educational prerequisites specified in subparagraph (1) as required for an applicant for a license as an escrow agency or an escrow agent, as applicable; and

(3) Has not requested, or the Commissioner has denied a request by the holder for, an extension of the time for completion of the educational prerequisites specified in this paragraph; or

(d) On December 31, 2011, if the holder of the provisional license has not requested, or the Commissioner has denied a request by the holder for, an extension of the expiration date set forth in this paragraph.

5. A request for an extension pursuant to subparagraph (3) of paragraph (c) of subsection 4 or paragraph (d) of subsection 4 must set forth reasons which would support a finding by the Commissioner of good cause to grant the extension. The Commissioner may grant such a request for an

extension only upon a finding by the Commissioner that good cause exists to grant such an extension.

6. The Commissioner shall not issue a provisional license to a person who submits the documentation and materials required by subsection 1 for a provisional license after October 1, 2011.

7. A provisional license issued by the Commissioner before July 1, 2011:

- (a) Is effective on July 1, 2011; and
- (b) Shall be deemed to have been issued on July 1, 2011.

8. As used in this section:

- (a) "Commissioner" has the meaning ascribed to it in NRS 645A.010.
- (b) "Construction control" has the meaning ascribed to it in NRS 627.050.
- (c) "License" means a license as an escrow agency or an escrow agent, as applicable, issued pursuant to the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto.

(d) "Provisional license" means a provisional license as an escrow agency or an escrow agent, as applicable, issued pursuant to the provisions of this section.

Sec. 107. This act becomes effective:

- 1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
- 2. On July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

645B.044 Mortgage broker may deposit substitute form of security in lieu of security bond; amount deposited must equal amount of bond; interest or dividends accrue to depositor.

1. As a substitute for the surety bond required by NRS 645B.042, a mortgage broker may, in accordance with the provisions of this section, deposit with any bank or trust company authorized to do business in this State, in a form approved by the Commissioner:

(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States;

or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State.

2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond. With the approval of the Commissioner, the depositor may substitute other suitable obligations for those deposited which must be assigned to the State of Nevada and are negotiable only upon approval by the Commissioner.

3. Any interest or dividends earned on the deposit accrue to the account of the depositor.

4. The deposit must be in an amount at least equal to the required surety bond and must state that the amount may not be withdrawn except by direct and sole order of the Commissioner. The value of any item deposited pursuant to this section must be based upon principal amount or market value, whichever is lower.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 617 to Assembly Bill No. 77 prohibits an attorney or an employee of an attorney from requesting or receiving any compensation for providing services as a foreclosure consultant or in connection with obtaining a mortgage loan modification until the homeowner has executed a written agreement with the lender which incorporates the offer of mortgage assistance obtained on behalf of the homeowner by the attorney or employee of the attorney.

The amendment also changes the definition of the term "residence in foreclosure" to make it consistent with the use of the term "foreclosure consultant" in other statutes and with the Federal Trade Commission rules applicable to dwellings. The effect of this change is to ensure the protections of the bill apply to dwellings with one to four units as well as single family residences.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 260.

Bill read second time and ordered to third reading.

Assembly Bill No. 282.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 576.

"SUMMARY—Revises various provisions concerning firearms. (BDR 15-962)"

"AN ACT relating to firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the renewal of a permit to carry a concealed firearm; revising provisions concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the

sheriff. **Section 2** also specifies that an investigation conducted by the sheriff for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System. **Section 4** of this bill revises the fee for the renewal of a permit from \$25 to the amount of the actual cost to obtain the reports required as part of the investigation by the sheriff.

Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance

to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~one or more specific~~ **for** semiautomatic firearms, or for revolvers and ~~one or more specific~~ semiautomatic firearms, as applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, ~~each specific~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms**, as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

↪ Such a course must include instruction in the use of revolvers, ~~each~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.
(b) Has been judicially declared incompetent or insane.
(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this

section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~The make, model and caliber of each semiautomatic firearm to which the application pertains, if any;~~

~~(g) Whether the application pertains to semiautomatic firearms;~~

(g) Whether the application pertains to revolvers;

(h) A nonrefundable fee in the amount ~~necessary~~ **of the actual cost** to obtain the ~~report~~ **reports** required pursuant to subsection 1 of NRS 202.366; and

(i) A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 2. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, **including an application for the renewal of a permit pursuant to NRS 202.3677**, the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. **The investigation also must include a report from the National Instant Criminal Background Check System.** The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily

submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County	Permit Number
Expires	Date of Birth
Height	Weight
Name.....	Address.....
City	Zip

Photograph

Signature

Issued by

Date of Issue

~~[Make, model and caliber of each authorized semiautomatic firearm if any]~~

Semiautomatic firearms authorized Yes..... No

Revolvers authorized

 Yes..... No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. **As used in this section, "National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.**

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~and~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~†~~ **or permittee;**

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

↪ are confidential.

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive,

including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~complete~~ :

(a) **Complete** and submit to the sheriff who issued the permit an application for renewal of the permit ~~+~~ ; and

(b) **Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.**

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee ~~of \$25.~~ **in the amount of the actual cost to obtain the reports required pursuant to subsection 1 of NRS 202.366.**

↪ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of \$15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with revolvers, with ~~each~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or with revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms**, as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 5. NRS 407.0475 is hereby amended to read as follows:

407.0475 1. The Administrator shall adopt such regulations as he or she finds necessary for carrying out the provisions of this chapter and other provisions of law governing the operation of the Division. ~~The~~ **Except as otherwise provided in subsection 2, the** regulations may include prohibitions and restrictions relating to activities within any of the park or recreational facilities within the jurisdiction of the Division.

2. Any regulations relating to the conduct of persons within the park or recreational facilities must:

(a) Be directed toward one or both of the following:

(1) Prevention of damage to or misuse of the facility.

(2) Promotion of the inspiration, use and enjoyment of the people of this State through the preservation and use of the facility.

(b) Apply separately to each park, monument or recreational area and be designed to fit the conditions existing at that park, monument or recreational area.

(c) **Not establish restrictions on the possession of firearms within the park or recreational facility which are more restrictive than the laws of this State relating to:**

(1) **The possession of firearms; or**

(2) Engaging in lawful resistance to prevent an offense against a person or property.

↳ *Any regulation which violates the provisions of this paragraph is void.*

3. Any person whose conduct violates any regulation adopted pursuant to subsection 1, and who refuses to comply with the regulation upon request by any ranger or employee of the Division who has the powers of a peace officer pursuant to NRS 289.260, is guilty of a misdemeanor.

Sec. 6. 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 changes the effective date of the bill to July 1, 2011.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 382.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Bill No. 398 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Wiener moved that Assembly Bills Nos. 78, 365, 422, 477, 551, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 483.

Bill read second time and ordered to third reading.

Assembly Bill No. 566.

Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 5 of the 75th Session.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 206.

Bill read third time.

Remarks by Senators Hardy, Leslie and Roberson.

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

SENATOR HARDY:

Thank you, Mr. President. The definition of lobbyist means to me, if I am lobbied by someone who is already a registered lobbyist in this Session, and am lobbied by someone who is

not a registered lobbyist in this Session, at what point does a non-lobbyist become a lobbyist and do the required quarterly report about being a lobbyist, even though they were not before they lobbied me?

SENATOR LESLIE:

This bill is tied to those who are registered during the Session. If they deregister after the Session is over, they are no longer required to fill out reports. In the case you are referencing, Senator Hardy, I do not think the bill applies. They would have to register as a lobbyist again before the provisions would apply.

SENATOR HARDY:

Then a lobbyist can deregister as a lobbyist so, therefore, that person no longer has to do a quarterly report even though that person is going to register again as a lobbyist in the next session.

SENATOR LESLIE:

Thank you, Mr. President. In that scenario, then that person would not be allowed to lobby you in the interim.

SENATOR ROBERSON:

I stand in strong support of Senator Leslie's bill. It is time we cleaned this building up and this is a good start.

Roll call on Senate Bill No. 206:

YEAS—21.

NAYS—None.

Senate Bill No. 206 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 19.

Bill read third time.

Roll call on Assembly Bill No. 19:

YEAS—21.

NAYS—None.

Assembly Bill No. 19 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 138.

Bill read third time.

Roll call on Assembly Bill No. 138:

YEAS—20.

NAYS—Gustavson.

Assembly Bill No. 138 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 227.

Bill read third time.

Roll call on Assembly Bill No. 227:

YEAS—21.

NAYS—None.

Assembly Bill No. 227 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 237.

Bill read third time.

Remarks by Senator Lee.

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

Assembly Bill No. 237 allows Washoe County to participate in the County Bond Bank when issuing bonds or other securities for the County's program to assist persons hooking up to a municipal water or sewer system. Revenue from general property taxes may not be used to repay special obligation bonds issued for this assistance program. The bill limits any loans financed by such bonds to natural persons. For securities issued under this assistance program, the bill raises the limit on interest rates by 2 percent so that the total limit is 5 percent over the Index of Twenty Bonds for general obligation bonds and the Index of Revenue Bonds for special obligations.

The bill is effective upon passage and approval.

This measure was requested by the Legislative Committee to Oversee the Western Regional Water Commission. Assembly Bill No. 54 in the 2009 75th Session enabled Washoe County to adopt an ordinance setting up the assistance program for persons needing assistance to hook up to the municipal water or sewer systems.

Roll call on Assembly Bill No. 237:

YEAS—21.

NAYS—None.

Assembly Bill No. 237 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 246.

Bill read third time.

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

Senate in recess at 10:43 a.m.

SENATE IN SESSION

At 10:47 a.m.

President Krolicki presiding.

Quorum present.

Roll call on Assembly Bill No. 246:

YEAS—21.

NAYS—None.

Assembly Bill No. 246 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 248.

Bill read third time.

Roll call on Assembly Bill No. 248:

YEAS—21.

NAYS—None.

Assembly Bill No. 248 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 249.

Bill read third time.

Roll call on Assembly Bill No. 249:

YEAS—21.

NAYS—None.

Assembly Bill No. 249 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 253.

Bill read third time.

Roll call on Assembly Bill No. 253:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson,
Schneider, Settlemeyer—10.

Assembly Bill No. 253 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 254.

Bill read third time.

Roll call on Assembly Bill No. 254:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads,
Roberson, Settlemeyer—10.

Assembly Bill No. 254 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 276.

Bill read third time.

Roll call on Assembly Bill No. 276:

YEAS—21.

NAYS—None.

Assembly Bill No. 276 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 280.

Bill read third time.

Roll call on Assembly Bill No. 280:

YEAS—21.

NAYS—None.

Assembly Bill No. 280 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 290.

Bill read third time.

Roll call on Assembly Bill No. 290:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 292.

Bill read third time.

Roll call on Assembly Bill No. 292:

YEAS—20.

NAYS—Parks.

Assembly Bill No. 292 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 306.

Bill read third time.

Roll call on Assembly Bill No. 306:

YEAS—21.

NAYS—None.

Assembly Bill No. 306 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 313.

Bill read third time.

Roll call on Assembly Bill No. 313:

YEAS—21.

NAYS—None.

Assembly Bill No. 313 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 317.

Bill read third time.

Roll call on Assembly Bill No. 317:

YEAS—21.

NAYS—None.

Assembly Bill No. 317 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 318.

Bill read third time.

Roll call on Assembly Bill No. 318:

YEAS—21.

NAYS—None.

Assembly Bill No. 318 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 362.

Bill read third time.

Roll call on Assembly Bill No. 362:

YEAS—21.

NAYS—None.

Assembly Bill No. 362 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 368.

Bill read third time.

Roll call on Assembly Bill No. 368:

YEAS—21.

NAYS—None.

Assembly Bill No. 368 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 373.

Bill read third time.

Roll call on Assembly Bill No. 373:

YEAS—21.

NAYS—None.

Assembly Bill No. 373 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 395.

Bill read third time.

Roll call on Assembly Bill No. 395:

YEAS—21.

NAYS—None.

Assembly Bill No. 395 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 396.

Bill read third time.

Roll call on Assembly Bill No. 396:

YEAS—21.

NAYS—None.

Assembly Bill No. 396 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Assembly Bill No. 410 be taken from the
General File and placed on the General File for the next legislative day.

Motion carried.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 23, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted
Assembly Concurrent Resolution No. 11.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

GENERAL FILE AND THIRD READING

Assembly Bill No. 420.

Bill read third time.

Roll call on Assembly Bill No. 420:

YEAS—21.

NAYS—None.

Assembly Bill No. 420 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 451.

Bill read third time.

Roll call on Assembly Bill No. 451:

YEAS—21.

NAYS—None.

Assembly Bill No. 451 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 454.

Bill read third time.

Roll call on Assembly Bill No. 454:

YEAS—21.

NAYS—None.

Assembly Bill No. 454 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 455.

Bill read third time.

Roll call on Assembly Bill No. 455:

YEAS—21.

NAYS—None.

Assembly Bill No. 455 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 456.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 763.

"SUMMARY—Revises provisions governing the attendance of pupils and graduation from high school. (BDR 34-1140)"

"AN ACT relating to education; authorizing certain pupils to receive a standard high school diploma without passing all subject areas of the high school proficiency examination under certain circumstances; authorizing the board of trustees of a school district to adopt a policy that allows certain pupils enrolled in high school the opportunity to make up credit; authorizing a juvenile court to impose certain orders against the parent or legal guardian of a child who is adjudicated in need of supervision because the child is a habitual truant; revising provisions governing employment of minors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes a standard high school diploma and an adjusted diploma and requires that to receive a standard high school diploma, a pupil must satisfy the requirements for graduation from high school and either pass the high school proficiency examination in its entirety or fail to pass certain subject areas on the examination and satisfy certain alternative criteria

prescribed by the State Board of Education. (NRS 389.805) **Section 5** of this bill provides that a pupil who has failed to pass the same subject area of the high school proficiency examination each time the pupil took the examination, including the final administration of the examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate, may receive a standard high school diploma if the pupil obtained a cumulative score that meets the required cumulative score prescribed by the State Board and also satisfies certain additional conditions. **Section 5** also removes the satisfaction of the existing alternative criteria as a means by which a pupil may receive a standard high school diploma. **Section 9.5** of this bill requires the board of trustees of each school district, on or before December 31, 2012, to submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report on the number of pupils who were awarded a standard high school diploma pursuant to the criteria prescribed by **section 5**.

Section 6 of this bill authorizes school districts to adopt a policy that allows a high school pupil who has failed to comply with minimum attendance requirements the opportunity to make up the credits which the pupil missed during his or her absence.

Existing law prescribes the actions which must be taken by a juvenile court against a child who has been adjudicated in need of supervision because the child is a habitual truant. (NRS 62E.430) **Section 7** of this bill authorizes a juvenile court to order the parent or legal guardian of such a child to attend conferences with the child's teacher and appropriate school administrators to address the status of the child as a habitual truant and to develop a plan to ensure that the child attends school.

Section 8 of this bill authorizes the parent or legal guardian of a child between the ages of 16 and 18 years to indicate on a work permit that is issued to the child by the county, if any, the maximum number of hours that his or her child may work and the particular hours in which that work may occur during the week or on the weekend.

Existing law provides that a child under the age of 16 years may be employed in certain occupations for not more than 48 hours in any 1 week and 8 hours in any 1 day. (NRS 609.240) **Section 9** of this bill revises the hours that a child may be employed to 20 hours in any 1 week when school is in session and 48 hours in any 1 week when school is not in session.

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

- (1) Pupils who are economically disadvantaged, as defined by the State Board;
- (2) Pupils from major racial and ethnic groups, as defined by the State Board;
- (3) Pupils with disabilities;
- (4) Pupils who are limited English proficient; and
- (5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a

whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational

expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) ~~Paragraph (a) of subsection 1 of NRS 389.805;~~ **Subsection 1** of NRS 389.805; and

(II) ~~Paragraph (b) of subsection 1 of NRS 389.805.~~

Subsection 4 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school

district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination ~~†~~ **or otherwise failed to satisfy the requirements of NRS 389.805.**

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(10) Information on whether each school in the district, including, without limitation, each charter school in the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

➔ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

- (1) Any special programs for pupils at an individual school; and
- (2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) ~~Paragraph (a) of subsection 1 of NRS 389.805;~~ **Subsection 1** of NRS 389.805; and

(II) ~~Paragraph (b) of subsection 1 of NRS 389.805.~~

Subsection 4 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school in the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are

employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination ~~or otherwise failed to satisfy the requirements of NRS 389.805.~~

(ee) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which the teacher is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration; and
- (6) Legislative Counsel Bureau,

↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for

public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Mathematics; and
- (c) Science.

2. The examinations required by subsection 1 must be:

(a) Administered before the completion of grades 4, 7, 10 and 11.

(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the

examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

↪ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, the pupil may be promoted to the next higher grade, but the results of the pupil's examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. Except as otherwise provided in subsection 6, if a pupil fails to pass the high school proficiency examination, the pupil must not be graduated unless he or she:

(a) Is able, through remedial study, to pass the proficiency examination; or

(b) ***Failed to pass the same subject area of the proficiency examination each time the pupil took the examination, including the final administration of the examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate, and satisfies the requirements of subsection 4 of NRS 389.805, [Passes the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805.]***

↪ but the pupil may be given a certificate of attendance, in place of a diploma, if the pupil has reached the age of 18 years.

6. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 5 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

7. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his or her duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his or her duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his or her duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his or her duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 4. NRS 389.0173 is hereby amended to read as follows:

389.0173 1. The Department shall develop an informational pamphlet concerning the high school proficiency examination for pupils who are enrolled in junior high, middle school and high school, and their parents and legal guardians. The pamphlet must include a written explanation of the:

(a) Importance of passing the examination, including, without limitation, an explanation that if the pupil fails the examination, or does not satisfy the requirements of ~~paragraph (b) of~~ subsection ~~4~~ 4 of NRS 389.805, the pupil is not eligible to receive a standard high school diploma;

(b) Subject areas tested on the examination;

(c) Format for the examination, including, without limitation, the range of items that are contained on the examination;

(d) Manner by which the scaled score, as reported to pupils and their parents or legal guardians, is derived from the raw score;

(e) Timeline by which the results of the examination must be reported to pupils and their parents or legal guardians;

(f) Maximum number of times that a pupil is allowed to take the examination if the pupil fails to pass the examination after the first administration;

(g) Courses of study that the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the examination and pass the examination; and

(h) Courses of study which the Department recommends that pupils take in high school to successfully prepare for the college entrance examinations.

2. The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as it considers necessary to ensure that pupils and their parents or legal guardians fully understand the examination.

3. On or before September 1, the Department shall provide a copy of the pamphlet or revised pamphlet to the board of trustees of each school district and the governing body of each charter school that includes pupils enrolled in a junior high, middle school or high school grade level.

4. The board of trustees of each school district shall provide a copy of the pamphlet to each junior high, middle school or high school within the school district for posting. The governing body of each charter school shall ensure that a copy of the pamphlet is posted at the charter school. Each principal of a junior high, middle school, high school or charter school shall ensure that the teachers, counselors and administrators employed at the school fully understand the contents of the pamphlet.

5. On or before January 15, the:

(a) Board of trustees of each school district shall provide a copy of the pamphlet to each pupil who is enrolled in a junior high, middle school or high school of the school district and to the parents or legal guardians of such a pupil.

(b) Governing body of each charter school shall provide a copy of the pamphlet to each pupil who is enrolled in the charter school at a junior high,

middle school or high school grade level and to the parents or legal guardians of such a pupil.

Sec. 5. NRS 389.805 is hereby amended to read as follows:

389.805 1. Except as otherwise provided in ~~subsection 3,~~ **subsections 3 and 4**, a pupil must receive a standard high school diploma if the pupil ~~†:~~

~~—(a) Passes† passes~~ all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school. ~~†; or~~

~~—(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than two times before beginning grade 12 and the pupil:~~

~~—(1) Passes the subject areas of mathematics and reading on the proficiency examination;~~

~~—(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;~~

~~—(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection 4; and~~

~~—(4) Otherwise satisfies the requirements for graduation from high school.†~~

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if the pupil satisfies the requirements set forth in his or her individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

3. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of ~~paragraphs (a) and (b) of subsection~~ **subsections 1 and 4** if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

4. *A pupil must receive a standard high school diploma if the pupil has failed to pass the same subject area of the high school proficiency examination administered pursuant to NRS 389.015 each time the pupil took the examination, including the final administration of the*

examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate and the pupil:

(a) Has earned sufficient credits to receive a standard high school diploma;

(b) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(c) Satisfies the minimum attendance requirements established by the board of trustees of the school district pursuant to NRS 392.122;

(d) Does not have any disciplinary action pending against him or her; and

(e) Has obtained a cumulative score on the high school proficiency examinations that meets the required cumulative score prescribed by the State Board, which must be calculated using the highest scores received over all instances in which the examination was taken. ~~{The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:~~

~~—(a) An essay;~~

~~—(b) A senior project; or~~

~~—(c) A portfolio of work;~~

~~↳ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.~~

Sec. 6. NRS 392.122 is hereby amended to read as follows:

392.122 1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. The board of trustees of a school district may adopt a policy prescribing a minimum number of days that a pupil who is enrolled in kindergarten or first grade in the school district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade.

2. For the purposes of this section, the days on which a pupil is not in attendance because the pupil is absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130, must be credited towards the required days of attendance if the pupil has completed course-work requirements. The teacher or principal of the school may approve the absence of a pupil for deployment activities of the parent or legal guardian of the pupil, as defined in NRS 392C.010. If the board of trustees of a school district has adopted a policy pursuant to subsection 5, the 10-day limitation on absences does not apply to absences that are excused pursuant to that policy.

3. Except as otherwise provided in ~~subsection 5,~~ **subsections 5 and 6**, before a pupil is denied credit or promotion to the next higher grade for failure to comply with the attendance requirements prescribed pursuant to

subsection 1, the principal of the school in which the pupil is enrolled or the principal's designee shall provide written notice of the intended denial to the parent or legal guardian of the pupil. The notice must include a statement indicating that the pupil and the pupil's parent or legal guardian may request a review of the absences of the pupil and a statement of the procedure for requesting such a review. Upon the request for a review by the pupil and the pupil's parent or legal guardian, the principal or the principal's designee shall review the reason for each absence of the pupil upon which the intended denial of credit or promotion is based. After the review, the principal or the principal's designee shall credit towards the required days of attendance each day of absence for which:

(a) There is evidence or a written affirmation by the parent or legal guardian of the pupil that the pupil was physically or mentally unable to attend school on the day of the absence; and

(b) The pupil has completed course-work requirements.

4. A pupil and the pupil's parent or legal guardian may appeal a decision of a principal or the principal's designee pursuant to subsection 3 to the board of trustees of the school district in which the pupil is enrolled.

5. The board of trustees of a school district may adopt a policy to exempt pupils who are physically or mentally unable to attend school from the limitations on absences set forth in subsection 1. If a board of trustees adopts a policy pursuant to this subsection:

(a) A pupil who receives an exemption pursuant to this subsection is not exempt from the minimum number of days of attendance prescribed pursuant to subsection 1.

(b) The days on which a pupil is physically or mentally unable to attend school must be credited towards the required days of attendance if the pupil has completed course-work requirements.

(c) The procedure for review of absences set forth in subsection 3 does not apply to days on which the pupil is absent because the pupil is physically or mentally unable to attend school.

6. *The board of trustees of a school district may adopt a policy that allows a pupil enrolled in high school who has failed to comply with the minimum attendance requirements pursuant to subsection 1 for which he or she will be denied credit the opportunity to make up those credits. The policy must provide that such a pupil may obtain credit if the pupil is not absent from school for any additional days during the current grading period for which credit may be earned and the pupil:*

(a) Enrolls in a program in addition to the regular high school program that provides additional time and instruction for the pupil to make up the material missed due to the pupil's absences; or

(b) Passes a comprehensive examination demonstrating competence in the subject area for which the pupil would otherwise be denied credit.

↪ ***A pupil who does not satisfy the requirements of paragraph (a) or (b) will be denied credit, and the principal of the school shall provide notice of the intended denial pursuant to subsection 3.***

7. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

Sec. 7. NRS 62E.430 is hereby amended to read as follows:

62E.430 1. If a child is adjudicated to be in need of supervision because the child is a habitual truant, the juvenile court shall:

(a) The first time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than \$100 and the administrative assessment required by NRS 62E.270 or if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine and the administrative assessment; or

(II) The child to perform not less than 8 hours but not more than 16 hours of community service; and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 30 days but not more than 6 months. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 30 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

(b) The second or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than \$200 and the administrative assessment required by NRS 62E.270 or if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine and the administrative assessment;

(II) The child to perform not more than 10 hours of community service; or

(III) Compliance with the requirements set forth in both sub-paragraphs (I) and (II); and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 60 days but not more than 1 year. If

the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 60 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

2. The juvenile court may suspend the payment of a fine ordered pursuant to paragraph (a) of subsection 1 if the child attends school for 60 consecutive school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the imposition of the fine, or has a valid excuse acceptable to the child's teacher or the principal for any absence from school within that period.

3. The juvenile court may suspend the payment of a fine ordered pursuant to this section if the parent or guardian of a child is ordered to pay a fine by another court of competent jurisdiction in a case relating to or arising out of the same circumstances that caused the juvenile court to adjudicate the child in need of supervision.

4. The community service ordered pursuant to this section must be performed at the child's school of attendance, if practicable.

5. *If a child is adjudicated in need of supervision because the child is a habitual truant, the juvenile court may, the first time, the second time or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant, order the parent or legal guardian of the child to attend conferences with the child's teacher and appropriate school administrators to address the status of the child as a habitual truant and to develop a plan to ensure that the child attends school.*

Sec. 8. Chapter 609 of NRS is hereby amended by adding thereto a new section to read as follows:

If a county requires the issuance of work permits and a work permit is issued to a child between the ages of 16 and 18 years, the parent or legal guardian of the child may indicate on the work permit the maximum number of hours that his or her child may work and specify the time periods in which that work may occur during the week and on the weekend.

Sec. 9. NRS 609.240 is hereby amended to read as follows:

609.240 1. No child under the age of 16 years may be employed, permitted or suffered to work at any gainful occupation, other than domestic service, employment as a performer in the production of a motion picture or work on a farm, more than ~~48~~:

(a) *Twenty* hours in any 1 week ~~+~~ *when school is in session;*

(b) *Forty-eight* hours in any 1 week *when school is not in session;* or ~~more than 8~~

(c) *Eight* hours in any 1 day.

2. The presence of a child in any establishment during working hours is prima facie evidence of employment of the child therein.

Sec. 9.5. 1. On or before December 31, 2012, the board of trustees of each school district shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report on the standard high school diplomas awarded to pupils pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act.

2. The report submitted pursuant to subsection 1 must include:

(a) The number of pupils who were awarded a standard high school diploma pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act;

(b) An assessment of the effectiveness of the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act, with enabling pupils to receive a standard high school diploma who would not otherwise have been eligible for such a diploma; and

(c) A determination as to whether the awarding of a standard high school diploma pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act, should continue to be a means by which pupils may receive a standard high school diploma.

Sec. 10. ~~[This act becomes effective on July 1, 2011.]~~

1. The State Board of Education shall prescribe the cumulative score on the high school proficiency examination necessary to implement the provisions of paragraph (e) of subsection 4 of NRS 389.805, as amended by section 5 of this act, as soon as practicable after the effective date of section 5 of this act.

2. The State Board of Education is exempt from the provisions of chapter 233B of NRS for the purposes of prescribing the score pursuant to subsection 1 for the pupils currently enrolled in grade 12 but shall adopt a permanent regulation prescribing the score for future school years on or before January 1, 2012, pursuant to chapter 233B of NRS.

Sec. 11. 1. This section and section 5 of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, and 6 to 10, inclusive, of this act become effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Denis.

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

SENATOR HARDY:

The intent of this amendment is to allow any pupils currently enrolled in grade 12 to be eligible to receive a standard high school diploma if they meet the criteria set forth in Section 5 of the bill which includes obtaining a cumulative score on the high school proficiency examination prescribed by the State Board of Education. This has been vetted by both Chairs of the Education Committees.

Section 10 allows for the State Board of Education to be exempted from making the regulations necessary for it be applied to grade 12, and puts that exemption off so that the

State Board of Education can go ahead and make the appropriate regulations effective January 1, 2012.

SENATOR DENIS:

I have looked at the amendment and it makes sense. It will help students today, rather than having to wait until next year.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 472.

Bill read third time.

Roll call on Assembly Bill No. 472:

YEAS—21.

NAYS—None.

Assembly Bill No. 472 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 480.

Bill read third time.

Roll call on Assembly Bill No. 480:

YEAS—21.

NAYS—None.

Assembly Bill No. 480 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 481.

Bill read third time.

Roll call on Assembly Bill No. 481:

YEAS—21.

NAYS—None.

Assembly Bill No. 481 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 498.

Bill read third time.

Remarks by Senators Cegavske and Denis.

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

SENATOR CEGAVSKE:

Thank you, Mr. President. I want to remind the body that the amendment on this bill extends it instead of completely deleting it.

I would be remiss if I did not comment on the norm-reference tests. This bill deletes the only testing we do that goes to the local level. I have concerns about getting rid of this permanently. I think it is important that the schools, the principals and the parents get testing results as soon as

they can. This is one test that does provide that. Because of funding, it is suspended by extension for two years.

I have concern with the criterion-reference test. Unfortunately, that test is one that the State Board of Education is in charge of. They have watered down the criteria. Our students are passing at a 53 percent rate.

I have concerns about the testing that we are doing in the State of Nevada. If Senator Raggio were here, he would tell you this is one that he never wanted to get rid of. That is why we suspended it two years ago. I ask that we do that again. I know that when the new testing comes in, when the standards are changed, the National Common Core Standards say the testing will be better, and that we will have more accountability so the proof will be seen.

Several of us will not be here in the years to come. Know that this norm-referencing test is one of the few tests that get down to the local level. I hate to see it go, but we will wait and see what replaces it.

SENATOR DENIS:

I understand the need to test our children. Over the past few years, we have been looking for ways to reduce the number of tests. *No Child Left Behind* was referred to as, "no child left untested." By moving this out two more years, it will give us an opportunity to see what other instruments we will have to put in place with all of the databases and other tools to help us assess our students.

It is okay to move it forward. Eventually we will have a better tool. Moving it forward will allow us to discontinue it for now and we will save the money from the tests. We will look at it again in two years.

Roll call on Assembly Bill No. 498:

YEAS—21.

NAYS—None.

Assembly Bill No. 498 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 533.

Bill read third time.

Roll call on Assembly Bill No. 533:

YEAS—21.

NAYS—None.

Assembly Bill No. 533 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 534.

Bill read third time.

Roll call on Assembly Bill No. 534:

YEAS—21.

NAYS—None.

Assembly Bill No. 534 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 535.

Bill read third time.

Roll call on Assembly Bill No. 535:

YEAS—21.

NAYS—None.

Assembly Bill No. 535 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 544.

Bill read third time.

Roll call on Assembly Bill No. 544:

YEAS—20.

NAYS—Rhoads.

Assembly Bill No. 544 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 564.

Bill read third time.

Roll call on Assembly Bill No. 564:

YEAS—21.

NAYS—None.

Assembly Bill No. 564 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 1.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 1:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 1 having received a constitutional majority,
Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 11—Amending the Joint Standing Rules of the Senate and Assembly for the 76th Session of the Nevada Legislature to extend the second House passage deadline from May 27, 2011, until May 30, 2011.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That Rule No. 14.3 of the Joint Standing Rules of the Senate and Assembly as adopted by the 76th Session of the Nevada Legislature is hereby amended to read as follows:

Rule No. 14.3. Final Dates for Action by Standing Committees and Houses.

Except as otherwise provided in Joint Standing Rules Nos. 14.4, 14.5 and 14.6:

1. The final standing committee to which a bill or joint resolution is referred in its House of origin may only take action on the bill or joint resolution on or before the 68th calendar day of the legislative session. A bill may be re-referred after that date only to the Committee on Finance

or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

2. Final action on a bill or joint resolution may only be taken by the House of origin on or before the 79th calendar day of the Legislative Session.

3. The final standing committee to which a bill or joint resolution is referred in the second House may only take action on the bill or joint resolution on or before the 103rd calendar day of the Legislative Session. A bill may be re-referred after that date only to the Committee on Finance or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

4. Final action on a bill or joint resolution may only be taken by the second House on or before the ~~110th~~ **113th** calendar day of the Legislative Session.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

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

The purpose of the resolution is to modify our Joint Standing Rules. It asks to allow for policy bills, which would have to be passed by the second house on Friday, until Monday, May 30, 2011 for passage, to give our staff time to make any amendments or modifications to those bills. This is so that we can prioritize the budget process, this week's priority, and to delay any of the policy bills until Monday. Policy bills already out with amendments ready will be brought directly to the Floor and will be considered under Second Reading and Third Reading as we normally do. If, as committees complete work, those amendments are not ready by Friday, this will extend that time to Monday. This will give us ample time to consider those measures. This is a resolution agreed to by leadership in both houses.

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

Senate in recess at 11:22 a.m.

SENATE IN SESSION

At 11:26 a.m.

President Krolicki presiding.

Quorum present.

Senator Horsford moved that Assembly Concurrent Resolution No. 11 be taken from the Resolution File and placed on the Resolution File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolution No. 12.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and teacher from the Truckee Meadows Community College High School: Rachel Bonderson, Danessa Duckett, Blanca Fascio, Amelia Gunn, Olivia Hernandez, Vanessa Lan, Alicia lee, Dalton Malone, Savannah Mascarelli, Jared Michael, Joshua Moore, Sera Ozbek, Zachary Reinitz, Amanda Rieger, Justin Schilling, Erin Smith, Joseph Stanton, Maxwell Thom,

Brooke Whisenant, Steven Aguilar, Seini Aonga, Gabriel Busch, Julian Byrd, Markus Chapman, Dominick Peter Crisostomo, Kyle Fenner, Meghan Grassi, Bruce Kroboth, Shay Malloy, Tyler Nott, Morgan Perry, Mark Peterson, Devonnice Pickrell, Kyle Polzin, Erica Rose, Amanda Mae Sagun, Dylan Schindler, Mason Walton, Isabel Youngs and teacher: Carlos Hatfield.

Senator Horsford moved that the Senate adjourn until Wednesday, May 25, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 11:28 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate