

**THE ONE HUNDRED AND EIGHTH DAY**

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CARSON CITY (Wednesday), May 25, 2011

Senate called to order at 11:16 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

Almighty God and Father, we come to You this morning seeking Your guidance to work for the good of the citizens of Nevada. As we met yesterday to discuss what directions to take, may we look closely at all decisions we make because they will have a lasting influence on the State's success in this fragile world.

Guide us today, especially as we might take positions that are not in agreement with those seated in this Chamber and the Assembly.

We also come to You again today asking for Your help and assistance for the brave people of the Midwest in our country who are reeling after more tornados in that area yesterday. Give comfort to those who have experienced great loss of any kind. May we, as the citizens of Nevada, rise up to give assistance that we truly be united together as one people in this United States.

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 were referred Assembly Bills Nos. 122, 283, 289, 308, 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 Education, to which was referred Assembly Bills Nos. 230, 393, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

*Mr. President:*

Your Committee on Finance, to which was referred Senate Bill No. 499, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 439, 452, 477, 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. 238, 265, 545, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

*Mr. President:*

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 160, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

*Mr. President:*

Your Committee on Judiciary, to which was referred Assembly Bill No. 291, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 132, 179, 301, 501, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

*Mr. President:*

Your Committee on Revenue, to which was referred Senate Joint Resolution No. 15, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHEILA LESLIE, *Chair*

#### 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 passed Senate Bills Nos. 6, 10, 12, 13, 15, 17, 21, 25, 33, 38, 45, 58, 63, 66, 67, 79, 109, 117, 137, 157, 167, 196, 209, 328, 331, 353, 368, 387, 390, 441, 495; Senate Joint Resolution No. 4.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 245, Amendment No. 637; Senate Bill No. 264, Amendment No. 636, and respectfully requests your honorable body to concur in said amendments.

MATTHEW BAKER

*Assistant Chief Clerk of the Assembly*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 11.

Senator Horsford moved the adoption of the resolution.

Remarks by Senators Horsford, McGinness, Settlemeyer; Secretary Byerman and President Krolicki.

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

SENATOR HORSFORD:

This rule change will allow for second house passage on Monday instead of this Friday to allow our staff the weekend to complete the amendments on any policy related bills. It will allow us to focus on the remaining portion of this week on the budget.

SENATOR MCGINNESS:

I appreciate the Majority Leader's explanation. I spoke to legal counsel and because of the delay yesterday and since we did not meet that perhaps we did not need this resolution. Can you explain?

SENATOR HORSFORD:

No, this was something that was requested by staff to help us with the process. We have a lot of bills and a lot of amendments that are still requested. In order to focus on the budget provisions, it is requested that we adopt this rule change to our Joint Standing Rules.

SENATOR SETTELMEYER:

Thank you, Mr. President. I have a parliamentary inquiry. There has been some discussion that at first, the Secretary of the Senate had indicated that this was a two-thirds vote. I agreed with that under our Rule No. 91, which says under suspension of the rules, "No standing rule or order of the Senate shall be rescinded or changed without a vote of two-thirds of the body." Is this now all of a sudden a majority vote, if it is how?

SENATOR HORSFORD:

Are you referring to the Senate Rules or to the Joint Standing Rules?

SENATOR SETTELMEYER:

I was concerned as we are talking about changing a rule that affects the Senate. I assumed that would be under the Senate Standing Rules.

SENATOR HORSFORD:

It is the Joint Standing Rules that are separate from the Senate Rules. This is a Joint Standing Rule change that requires a majority vote of both houses.

SENATOR SETTELMEYER:

So, under parliamentary procedure it is majority. Thank you.

SECRETARY BYERMAN:

I communicated yesterday, as Parliamentarian for the Senate, to both the Senate Majority and Minority Leaders that Rule No. 91 does address an amendment to the Senate Standing Rules. The Senate rules do require a two-thirds vote for that type of a change. But for an amendment to the Joint Standing Rules, we do not address the vote requirements in our rules. Therefore, Mason's Manual, our parliamentary authority, applies. Mason's Manual clearly indicates that if there is not a higher vote requirement indicated in our rules, then as in this case of the Joint Standing Rules, a majority vote would be required.

MR. PRESIDENT:

I do believe that the Joint Rules do not cover voting procedures because each house shall cover its own procedures. We determine how they will conduct their business. While I understand this is for Joint Rules, we do have procedures. However, we are not voting directly to suspend the rules of this Senate. We are passing a resolution. I believe a simple majority is in order. I appreciate Senator Settelmeyer's comments that this is a circuitous route to that end.

Motion carried on a division of the house.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Wiener moved that Assembly Bills Nos. 483, 566, be taken from their positions on the General File and placed at the top of the General File and to proceed next to the General File.

Motion carried.

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

Senate in recess at 11:33 a.m.

SENATE IN SESSION

At 11:38 a.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 483.

Bill read third time.

Roll call on Assembly Bill No. 483:

YEAS—21.

NAYS—None.

Assembly Bill No. 483 having received a constitutional majority, Mr. President declared it passed.

Senator Horsford moved that all rules be suspended and that Assembly Bill No. 483 be immediately transmitted to the Assembly.

Motion carried unanimously.

Assembly Bill No. 566.

Bill read third time.

Remarks by Senators Parks, Settlemeyer, Denis and Cegavske.

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

SENATOR PARKS:

Assembly Bill No. 566 revises the districts for election of members of the Nevada Senate and Assembly and of representatives in the United States House of Representatives.

The measure retains a 21-member Senate. The ideal population in each Senate district is 128,598. The overall range of population deviation is 0.23 percent. The plan eliminates the multi-member Senate districts in Clark County, and includes 15 Senate districts wholly within Clark County and three districts wholly within Washoe County. The remaining three districts contain parts of Clark and Washoe Counties, and the rural counties.

The measure retains a 42-member Assembly. The ideal population in each Assembly district is 64,299. The overall range of population deviation is 0.49 percent. No Assembly districts are nested within Senate districts. The plan includes 30 Assembly districts wholly within Clark County and six districts wholly within Washoe County. The remaining six districts contain parts of Clark and Washoe Counties, and the rural counties.

Based on the 2010 United States Census, Nevada has been apportioned a fourth Congressional district. The ideal population in each district is 675,138. The overall range of population deviation is 0.00 percent. Two Congressional districts are wholly contained in Clark County. A third district contains a portion of Clark County and all or parts of rural counties. A fourth district contains all of Washoe County and all or parts of rural counties. The bill provides for the use of the term "reelect" in the 2012 General Election under certain circumstances. The measure also includes a severability clause.

The bill contains various effective dates for the purposes of filing for office and for nominating and electing members of the Nevada Legislature and the U.S. House of Representatives and for other purposes.

SENATOR SETTELMAYER:

I rise in opposition to this bill. I am concerned with how this bill complies with the Voting Rights Act. The Hispanics are currently 26 percent of the population of our State. They currently hold two seats now. That should be 9.5 percent of the seats in this Chamber. The Hispanics represented 46 percent of the population growth in the State of Nevada since the 2000 census. Under this plan, I do not see any opportunities for the minority opportunity districts to advance. I respectfully rise in opposition. I am also concerned about the renumbering of the districts. We renumbered a lot of districts that we did need to. Individuals could have kept their own numbers, therefore there would not have had to be any change of law. The change of law that was mentioned within the bill still leaves six or seven Senators not being able to use the term "reelect."

SENATOR DENIS:

Once again, I would like to thank the Republican caucus for trying to look out for the Hispanic community; however, in this particular map it does give a better opportunity for the Hispanic community. I have talked with many Hispanic community organizations in Nevada. We feel this will give us a better opportunity as we move forward to have Hispanic representation. I feel these maps have taken that into consideration.

SENATOR CEGAVSKE:

I also rise in opposition of Assembly Bill No. 566. When we released the data for the Republican maps, it was our impression that we would be able to have some good discussions about both sets of maps and come to some mutual agreement. Unfortunately, there was a meeting set up for Monday. It was cancelled. A meeting yesterday was cancelled. I rise in opposition that there was no debate. There was no looking at both proposals trying to come to common ground. This is being pushed through without the considerations of both parties.

Roll call on Assembly Bill No. 566:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 566 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 498.

Bill read third time.

Roll call on Senate Bill No. 498:

YEAS—21.

NAYS—None.

Senate Bill No. 498 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 20.

Bill read third time.

Roll call on Assembly Bill No. 20:

YEAS—21.

NAYS—None.

Assembly Bill No. 20 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 77.

Bill read third time.

The following amendment was proposed by Senator Schneider:

Amendment No. 772.

"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.

Section 87 of Assembly Bill No. 77 is hereby amended as follows:

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

Section 88.5 of Assembly Bill No. 77 is hereby amended as follows:

Sec. 88.5. **(Deleted by amendment.)**

Section 95 of Assembly Bill No. 77 is hereby amended as follows:

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* ~~sections~~ **section 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.

Section 98 of Assembly Bill No. 77 is hereby amended as follows:

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 sections~~ **section 88** ~~and 88.5~~ of this act do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. ~~(a)~~ An attorney at law rendering services in the performance of his or her duties as an attorney at law, unless the attorney at law is 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;**

2. ~~(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;

3. ~~(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 ~~;~~ **System;**

4. ~~(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;

5. ~~(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;

6. ~~(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;

7. ~~(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

8. ~~(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  
ARS 645F-300.~~

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. 772 to Assembly Bill No. 77 will conform Assembly Bill No. 77 to Assembly Bill No. 308, which will come to the Floor for Report of Committees today.

The effect of the amendment is that employees of attorneys who perform work as foreclosure consultants and do mortgage modifications will have to be licensed to perform these services; such employees will not be exempt from the licensure requirements.

Amendment adopted.

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

Assembly Bill No. 78.

Bill read third time.

Roll call on Assembly Bill No. 78:

YEAS—9.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Horsford, Kieckhefer, Manendo, McGinness, Rhoads, Roberson, Settelmeyer—12.

Assembly Bill No. 78 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 260.

Remarks by Senator Parks.

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

Assembly Bill No. 260 requires newly elected Legislators to attend a mandatory training program prior to taking part in their first legislative session. The training program will be designed by the majority and minority leadership of both houses of the Legislature and will be conducted between the general election and the start of the next legislative session. The training program cannot exceed 10 days, and the dates upon which it will be held must be posted on the Legislature's website no later than 90 days before training commences.

A Legislator who fails to attend a mandatory training session is subject to a monetary penalty equal to one day's pay for each mandatory session they fail to attend. The Assembly or Senate, as applicable, may affirm, reduce, or dismiss the penalty upon appeal by the Legislator.

Senator Horsford moved that Assembly Bill No. 260 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 282.

Bill read third time.

The following amendment was proposed by Senator Halseth:

Amendment No. 780.

"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 ~~for 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 .....

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, ~~fin 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. 5.5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.**

**Sec. 6.** This act becomes effective on July 1, 2011.

Senator Halseth moved the adoption of the amendment.

Remarks by Senator Halseth.

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

Thank you, Mr. President. This amendment makes a couple of changes to the bill. First, the amendment deletes the changes to the fee provisions in Sections 1 and 4 of the bill so that the bill retains the existing fees for obtaining and renewing a permit to carry a firearm. Second, the amendment adds multiple joint sponsors to the bill. Specifically, the amendment would include all of the Republican Senators as joint sponsors of the bill.

Amendment adopted.

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

Assembly Bill No. 365.

Bill read third time.

Roll call on Assembly Bill No. 365:

YEAS—21.

NAYS—None.

Assembly Bill No. 365 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 382.

Bill read third time.

Roll call on Assembly Bill No. 382:

YEAS—21.

NAYS—None.

Assembly Bill No. 382 having received a two-thirds 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.

Senator Horsford moved that all rules be suspended and that Assembly Bill No. 566 be immediately transmitted to the Assembly.

Motion carried on a division of the house.

GENERAL FILE AND THIRD READING

Assembly Bill No. 422.

Bill read third time.

Roll call on Assembly Bill No. 422:

YEAS—21.

NAYS—None.

Assembly Bill No. 422 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 456.

Bill read third time.

Roll call on Assembly Bill No. 456:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Assembly Bill No. 456 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 477.

Bill read third time.

Roll call on Assembly Bill No. 477:

YEAS—21.

NAYS—None.

Assembly Bill No. 477 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 551.

Bill read third time.

Roll call on Assembly Bill No. 551:

YEAS—18.

NAYS—Halseth, McGinness, Roberson—3.

Assembly Bill No. 551 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 5 of the 75th Session.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 5 of the 75th Session:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—10.

Assembly Joint Resolution No. 5 of the 75th Session having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

#### SECOND READING AND AMENDMENT

Assembly Bill No. 59.

Bill read second time.

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

Amendment No. 634.

"SUMMARY—Makes various changes to the Open Meeting Law. (BDR 19-288)"

"AN ACT relating to the Open Meeting Law; requiring a public body to take certain actions if the Attorney General finds that the public body has violated the Open Meeting Law; authorizing the Attorney General to issue subpoenas during investigations of such violations; ~~revising the definition of "public body" for the purposes of the Open Meeting Law;~~ **providing that meetings of a public body that are quasi-judicial in nature are subject to the Open Meeting Law under certain circumstances;** requiring a public body to include certain notifications on an agenda for a public meeting; excluding a meeting held to consider an applicant for employment from certain notice requirements; making members of a public body subject to a civil penalty for violations; providing a penalty; and providing other matters properly relating thereto."

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

Existing law establishes the Open Meeting Law which requires, except in certain limited situations, that all meetings of public bodies be open and public. It further requires that all persons be allowed to attend any meeting of these public bodies. (NRS 241.020) Existing law makes any action of a public body in violation of the Open Meeting Law void, and requires the Attorney General to investigate and prosecute any violation of the Open Meeting Law. (NRS 241.036, 241.040) If the Attorney General finds that a public body has taken an action which violates the Open Meeting Law,

**section 2** of this bill requires the public body to include an item on the next agenda posted for a meeting of the public body acknowledging the finding of the Attorney General regarding such a violation. **Section 2** also provides that such acknowledgment is not an admission of wrongdoing on the part of the public body for the purposes of a civil action, criminal prosecution or injunctive relief. **Section 3** of this bill authorizes the Attorney General to issue subpoenas for the production of documents, records or materials in the course of his or her investigation of any violation of the Open Meeting Law and makes failure or refusal to comply with such a subpoena a misdemeanor.

**Section 1.5 of this bill provides that meetings of a public body that are quasi-judicial in nature are subject to the provisions of the Open Meeting Law unless exempted by the Legislative Commission.** ~~Section 4 of this bill revises the definition of "public body".~~ **1.5 also defines when a meeting is quasi-judicial in nature** for purposes of the Open Meeting Law. ~~It identifies the manner in which an entity must be created to be considered a public body and to clarify that a public body consists of at least two members. Section 4 also excludes proceedings of a public body that are judicial or quasi-judicial in nature from the requirements of the Open Meeting Law, unless the public body in question is also a regulatory body.~~

**Section 5** of this bill adds certain notifications that must be included on an agenda for a meeting of a public body.

Under existing law, if a public body holds a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, it must first provide written notice of that fact and, if such a meeting will be closed, must allow the attendance of certain individuals. Existing law also provides that casual or tangential references to a person or the person's name during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person. (NRS 241.033) **Section 6** of this bill provides that a meeting to consider an applicant for employment does not require prior notice to be given to the applicant.

Existing law makes each member of a public body who attends a meeting where action is taken in violation of the Open Meeting Law with knowledge of the fact that the meeting is in violation guilty of a misdemeanor. (NRS 241.040) **Section 7** of this bill further makes each such member who attends such a meeting subject to a civil penalty in an amount not to exceed \$500.

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

**Section 1.** Chapter 241 of NRS is hereby amended by adding thereto the provisions set forth as sections **1.5**, 2 and 3 of this act.

**Sec. 1.5. 1. Meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter unless the public body has received an exemption from the Legislative Commission.**

**2. For the purposes of this section, a meeting is quasi-judicial in nature if it is judicial in character and the public body affords to each party in the meeting:**

**(a) The ability to present and object to evidence;**

**(b) The ability to cross-examine witnesses;**

**(c) A written decision; and**

**(d) An opportunity to appeal the written decision.**

**Sec. 2. 1. If the Attorney General makes findings of fact and conclusions of law that a public body has taken action in violation of any provision of this chapter, the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges the findings of fact and conclusions of law. The opinion of the Attorney General must be treated as supporting material for the item on the agenda for the purposes of NRS 241.020.**

**2. The inclusion of an item on the agenda for a meeting of a public body pursuant to subsection 1 is not an admission of wrongdoing for the purposes of a civil action, criminal prosecution or injunctive relief.**

**Sec. 3. 1. The Attorney General shall investigate and prosecute any violation of this chapter.**

**2. In any investigation conducted pursuant to subsection 1, the Attorney General may issue subpoenas for the production of any relevant documents, records or materials.**

**3. A person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.**

**Sec. 4. NRS 241.015 is hereby amended to read as follows:**

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

1. "Action" means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Meeting":

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, "public body" means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government *consisting of at least two persons* which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405 ~~†, and†~~ , *if the administrative, advisory, executive or legislative body is created by:*

*(1) The Constitution of this State;*

*(2) Any statute of this State;*

*(3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;*

*(4) The Nevada Administrative Code;*

*(5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;*

*(6) An executive order issued by the Governor; or*

*(7) A resolution or ~~order~~ an action by the governing body of a political subdivision of this State;*

(b) *Any board, commission or committee consisting of at least two persons appointed by:*

*(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;*

*(2) An entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or*

(3) *A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee has at least two members who are not employed by the public officer or entity; and*

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

↪ "Public body" does not include the Legislature of the State of Nevada ~~for an entity, other than a regulatory body as defined in NRS 622.060, which would otherwise be considered a public body when such entity is engaged in proceedings that are judicial or quasi-judicial in nature.~~

4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law.

**Sec. 5.** NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

- (a) The time, place and location of the meeting.
- (b) A list of the locations where the notice has been posted.
- (c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items ~~†~~ **by placing the term "for possible action" next to the appropriate item.**

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

**(6) Notification that:**

**(I) Items on the agenda may be taken out of order;**

**(II) The public body may combine two or more agenda items for consideration; and**

**(III) The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.**

**(7) Any restrictions on comments by the general public. Any such restrictions must be reasonable and may restrict the time, place and manner of the comments, but may not restrict comments based upon viewpoint.**

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➤ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➤ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

**Sec. 6.** NRS 241.033 is hereby amended to read as follows:

241.033 1. ~~1A~~ *Except as otherwise provided in subsection 7, a public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:*

(a) Given written notice to that person of the time and place of the meeting; and

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be:

(1) Delivered personally to that person at least 5 working days before the meeting; or

(2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or

(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section ~~[-casual]~~ :

*(a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.*

*(b) Casual* or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

**Sec. 7.** NRS 241.040 is hereby amended to read as follows:

241.040 1. Each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending.

4. *In addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, and who participates in such action with knowledge of the violation, is subject to a civil penalty in an amount not to exceed \$500. The Attorney General ~~shall investigate and prosecute any violation of this chapter.~~ may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction. Such an action must be commenced within 1 year after the date of the action taken in violation of this chapter.*

**Sec. 8. 1.** ~~This act becomes~~ **section and sections 1 and 2 to 7, inclusive, of this act become** effective on July 1, 2011.

**2. Section 1.5 of this act becomes effective on January 1, 2012.**

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 634 to Assembly Bill No. 59 deletes the word "order" in Section 4 and inserts "an action" since "action" is defined in Chapter 241 and "order" is not. It adds a new Section 1.5, to become effective on January 1, 2012, stating that proceedings of a public body that are quasi-judicial in nature are subject to the Open Meeting Law unless the public body receives an exemption from the Legislative Commission. The deletion of language in Section 4 conforms with this new section; and adds new language defining "quasi-judicial in nature" as it relates to the language in the proposed new Section 1.5.

This definition was lifted from the Nevada Supreme Court decision on Stockmeier vs. Physiological Review Panel (2006).

Amendment adopted.

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

Assembly Bill No. 198.

Bill read second time.

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

Amendment No. 611.

"SUMMARY—Revises provisions governing the Nevada Rural Housing Authority. (BDR 31-376)"

"AN ACT relating to the Nevada Rural Housing Authority; revising the definition of "local government" to include the Authority for the purpose of loans from a local government in certain counties to the Authority; revising the requirements for eligibility to serve as a commissioner of the Authority; authorizing the Authority to receive a loan from a local government; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, before a local government may make an interfund loan or loan of money to another local government, the governing body of the local government that wishes to make the loan must determine at a public hearing that a sufficient amount of unrestricted money is available for the loan and that the loan will not compromise the economic viability of the fund from which the money is loaned. The local government must also establish at the public hearing: (1) the amount of time the money will be on loan from the fund; (2) the terms and conditions for repaying the loan; and (3) the rate of interest, if any, to be charged for the loan. (NRS 354.6118) For the purpose of making such a loan, the term "local government" does not include the Nevada Rural Housing Authority. (NRS 354.474) Existing law confers upon the Nevada Rural Housing Authority the authority to engage in various activities relating to the purposes for which the Authority was created, including, without limitation, the authority to enter into agreements or other transactions with any governmental agency or other source to further those purposes. (NRS 315.983)

**Section 1** of this bill revises the definition of "local government" to include the Nevada Rural Housing Authority for the sole purpose of loans from a local government in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to the Authority in accordance with existing law. **Section 3** of this bill expands the authorized actions of the Nevada Rural Housing Authority to include receipt by the Authority of such a loan of money from a local government.

Existing law provides for the appointment of five commissioners to serve as members of the Nevada Rural Housing Authority. Of those five commissioners, one commissioner must be appointed jointly by the Nevada

League of Cities and the Nevada Association of Counties and must be a recipient of assistance from the Authority. If that commissioner ceases to receive assistance from the Authority, he or she must be replaced by a person who receives such assistance. (NRS 315.977) **Section 2** of this bill revises the requirements for appointing that commissioner by providing that, if the commissioner no longer receives assistance from the Authority, he or she may continue to serve as a commissioner for the remainder of the unexpired term for which he or she was appointed if he or she resides within the area of operation of the Authority.

Existing law authorizes the Authority to operate in any area of this State which is not included within the corporate limits of a city or town having a population of 100,000 or more. (NRS 315.9835) **Section 4** of this bill authorizes the Authority to provide services in any area of the State if the Authority has contracted with the State or a local government to provide those services in that area. **Section 4** specifies that the provision of those services does not include the making of a mortgage loan ~~+~~, **the issuance of a mortgage credit certificate or bonds to finance a multifamily housing project, the allocation of a low-income housing tax credit or weatherization.**

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

**Section 1.** NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive:

(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" *includes the Nevada Rural Housing Authority for the purpose of loans of money from a local government in a county whose population is less than 100,000 to the Nevada Rural Housing Authority in accordance with NRS 354.6118. The term* does not include the Nevada Rural Housing Authority ~~+~~ *for any other purpose.*

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation district which levies an ad valorem tax shall comply with the filing and

publication requirements of NRS 354.470 to 354.626, inclusive, in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Utilities Service of the United States Department of Agriculture.

**Sec. 2.** NRS 315.977 is hereby amended to read as follows:

315.977 1. The Nevada Rural Housing Authority, consisting of five commissioners, is hereby created.

2. The commissioners must be appointed as follows:

(a) Two commissioners must be appointed by the Nevada League of Cities.

(b) Two commissioners must be appointed by the Nevada Association of Counties.

(c) One commissioner must be appointed jointly by the Nevada League of Cities and the Nevada Association of Counties. This commissioner must be a current recipient of assistance from the Authority and must be selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects operated by the Authority. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive assistance from the Authority. If during his or her term the commissioner ceases to be a recipient of assistance, the commissioner ~~must be replaced by a person who is a recipient of assistance.~~ **may continue to serve as a commissioner for the remainder of the unexpired term for which he or she was appointed if he or she resides within the area of operation of the Authority.**

3. After the initial terms, the term of office of a commissioner is 4 years or until his or her successor takes office.

4. A majority of the commissioners constitutes a quorum, and a vote of the majority is necessary to carry any question.

5. If either of the appointing entities listed in subsection 2 ceases to exist, the pertinent appointments required by subsection 2 must be made by the successor in interest of that entity or, if there is no successor in interest, by the other appointing entity.

**Sec. 3.** NRS 315.983 is hereby amended to read as follows:

315.983 1. Except as otherwise provided in NRS 354.474 and 377.057, the Authority:

(a) Shall be deemed to be a public body corporate and politic, and an instrumentality, local government and political subdivision of the State, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out the purposes and provisions of

NRS 315.961 to 315.99874, inclusive, but not the power to levy and collect taxes or special assessments.

(b) Is not an agency, board, bureau, commission, council, department, division, employee or institution of the State.

2. The Authority may:

(a) Sue and be sued.

(b) Have a seal.

(c) Have perpetual succession.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) Deposit money it receives in any insured state or national bank, insured credit union, insured savings and loan association, or in the Local Government Pooled Long-Term Investment Account created by NRS 355.165 or the Local Government Pooled Investment Fund created by NRS 355.167.

(f) Adopt bylaws, rules and regulations to carry into effect the powers and purposes of the Authority.

(g) Create a nonprofit organization which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the development of housing projects.

(h) Enter into agreements or other transactions with, and accept grants from and cooperate with, any governmental agency or other source in furtherance of the purposes of NRS 315.961 to 315.99874, inclusive.

(i) **Enter into an agreement with a local government in a county whose population is less than 100,000 to receive a loan of money from the local government in accordance with NRS 354.6118.**

(j) Acquire real or personal property or any interest therein, by gift, purchase, foreclosure, deed in lieu of foreclosure, lease, option or otherwise.

**Sec. 4.** NRS 315.9835 is hereby amended to read as follows:

315.9835 The State Authority may :

**1. Except as otherwise provided in subsection 2,** operate in any area of the State which is not included within the corporate limits of a city or town having a population of 100,000 or more.

**2. Provide services in any area of the State if the State Authority has contracted with the State or a local government to provide those services in that area. As used in this subsection, "services" does not include ~~the~~ ;**

**(a) The making of a mortgage loan pursuant to NRS 315.9981 to 315.99874, inclusive ~~and~~ ;**

**(b) The issuance of a mortgage credit certificate;**

**(c) The issuance of bonds to finance a multifamily housing project;**

**(d) The allocation of a low-income housing tax credit; or**

**(e) Weatherization other than an assessment or inspection of property for weatherization.**

**3. As used in this section, "weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.**

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** This act becomes effective on July 1, 2011.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 611 to Assembly Bill No. 198 clarifies the applicability of the bill to rural counties, those counties whose population is less than 100,000; this means all counties other than Clark and Washoe; and clarifies the types of mortgage-related services that may be offered by the Nevada Rural Housing Authority and certain weatherization activities of the Authority.

Amendment adopted.

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

Assembly Bill No. 299.

Bill read second time and ordered to third reading.

Assembly Bill No. 304.

Bill read second time.

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

Amendment No. 747.

"SUMMARY—Makes various changes relating to fire performers and apprentice fire performers. (BDR 42-885)"

"AN ACT relating to fire protection; codifying in statute the requirement in regulation that a person obtain a certificate of registration before acting as a fire performer; authorizing a person to act as a fire performer if the person holds a certificate of registration as an apprentice fire performer; providing for the application for and issuance of a certificate of registration as an apprentice fire performer; prohibiting an apprentice fire performer from acting as a fire performer without certain supervision; providing a penalty; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Currently, regulations adopted by the State Fire Marshal, who is charged with enforcing all laws and adopting regulations relating to fire prevention, require a person to apply to the State Fire Marshal for a certificate of registration as a fire performer before entertaining or otherwise performing before an audience using an open flame. (NRS 477.030; NAC 477.630) Any person who knowingly violates any of those laws or regulations is guilty of a misdemeanor. (NRS 477.250)

This bill codifies in statute the requirements in those regulations and adds requirements for both fire performers and apprentice fire performers. Under **section 5** of this bill, a person is prohibited from acting as a fire performer unless the person is the holder of a certificate of registration as a fire

performer, as in existing regulation. **Section 5** also authorizes a person to act as a fire performer if the person is the holder of a certificate of registration as an apprentice fire performer. **Section 5** authorizes the State Fire Marshal to issue either certificate to a person who ~~is at least 18 years of age,~~ **meets the age requirement for that certificate,** submits an application that includes a description of the person's experience as a fire performer or apprentice fire performer and all safety precautions used by the applicant while acting as a fire performer or apprentice fire performer, and pays an application fee prescribed by regulations adopted by the State Fire Marshal. **Section 5** also provides for the renewal of each such certificate.

**Section 6** of this bill prohibits an apprentice fire performer from acting as a fire performer unless the apprentice is directly supervised at all times by a registered fire performer who is at least 21 years of age. The person supervising must ensure that the apprentice fire performer safely handles and operates any equipment and complies with all applicable laws relating to acting as a fire performer.

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

**Section 1.** Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *"Apprentice fire performer" means a person who is issued a certificate of registration as an apprentice fire performer pursuant to section 5 of this act.*

**Sec. 4.** *"Fire performer" means an entertainer or other performer who performs for an audience using an open flame ~~in~~ in a venue authorized by permit of a governmental entity.*

**Sec. 5. 1.** *A person shall not act as a fire performer unless the person is the holder of a certificate of registration as a fire performer or apprentice fire performer issued by the State Fire Marshal pursuant to this section.*

**2.** *An applicant for a certificate of registration as a fire performer or apprentice fire performer must:*

*(a) Be a natural person ~~who is~~ and, if the application is:*

*(1) For a fire performer, be at least 21 years of age; or*

*(2) For an apprentice fire performer, be at least 18 years of age;*

*(b) Make a written notarized application to the State Fire Marshal on a form provided by the State Fire Marshal;*

*(c) Submit to the State Fire Marshal a resume setting forth the experience of the applicant as a fire performer or apprentice fire performer and a description of all safety precautions used by the applicant while acting as a fire performer or apprentice fire performer; and*

*(d) Pay an application fee in an amount prescribed by regulations adopted by the State Fire Marshal.*

*3. The State Fire Marshal may:*

*(a) Issue to any person who applies for either certificate pursuant to subsection 2 a certificate of registration as a fire performer or apprentice fire performer; and*

*(b) Renew a certificate of registration as a fire performer or apprentice fire performer to any person who applies for a renewal in a manner specified by the State Fire Marshal and pays a renewal fee in an amount prescribed by regulations adopted by the State Fire Marshal.*

*4. A certificate of registration as a fire performer or apprentice fire performer is valid for the period prescribed by regulations adopted by the State Fire Marshal.*

*Sec. 6. 1. An apprentice fire performer may not act as a fire performer unless, at all times while the apprentice fire performer is acting as a fire performer, the apprentice fire performer is directly supervised by a person who:*

*(a) Is at least 21 years of age; and*

*(b) Is the holder of a certificate of registration as a fire performer issued pursuant to section 5 of this act.*

*2. While an apprentice fire performer is acting as a fire performer, the fire performer who is directly supervising the apprentice fire performer shall ensure that the apprentice fire performer:*

*(a) Safely handles and operates any equipment used by the apprentice fire performer; and*

*(b) Complies with all applicable laws and regulations concerning acting as a fire performer.*

*Sec. 7. 1. In addition to any other requirements set forth in sections 2 to 8, inclusive, of this act, an applicant for the issuance or renewal of a certificate of registration pursuant to section 5 of this act shall:*

*(a) Include the social security number of the applicant in the application submitted to the State Fire Marshal.*

*(b) Submit to the State Fire Marshal the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

*2. The State Fire Marshal shall include the statement required pursuant to subsection 1 in:*

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

*(b) A separate form prescribed by the State Fire Marshal.*

*3. A certificate of registration may not be issued or renewed by the State Fire Marshal pursuant to section 5 of this act if the applicant:*

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

*(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

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

**Sec. 8. 1.** *If the State Fire Marshal receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a certificate of registration as a fire performer or apprentice fire performer, the State Fire Marshal shall deem the certificate of registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the State Fire Marshal receives a letter issued to the holder of the certificate of registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The State Fire Marshal shall reinstate a certificate of registration as a fire performer or apprentice fire performer that has been suspended by a district court pursuant to NRS 425.540 if the State Fire Marshal receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate of registration was suspended stating that the person whose certificate of registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

**Sec. 9.** On or before December 30, 2011, the State Fire Marshal shall adopt any regulations necessary to carry out the amendatory provisions of this act.

**Sec. 10. 1.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

*2. Sections 7 and 8 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:*

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

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 747 to Assembly Bill No. 304 clarifies that an apprentice fire performer must be at least 18 years of age and a fire performer must be at least 21 years of age; and clarifies the definition of "fire performer" to mean a person who performs for an audience using an open flame in a venue authorized by permit of a governmental entity. Local entities already permit performances using an open flame. This amendment conforms with the definition of this current practice.

Amendment adopted.

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

Assembly Bill No. 309.

Bill read second time.

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

Amendment No. 597.

"SUMMARY—Revises provisions governing insurance. (BDR 57-516)"

"AN ACT relating to insurance; creating the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry; requiring the Governor to appoint a Consumer Advocate as the executive head of the office; requiring the Consumer Advocate to intervene in and represent the public interest in public hearings relating to rates for certain ~~policies, contracts or plans of health insurance;~~ **health benefit plans;** requiring an insurer to provide certain information to the Consumer Advocate and the Division and publish on an Internet website maintained by the insurer certain information concerning each ~~policy, contract or plan of health insurance;~~ **such health benefit plan** offered by the insurer in this State; requiring the Commissioner of Insurance to publish on an Internet website maintained by the Division certain information relating to health insurance rates and public hearings relating to rates for ~~certain policies, contracts or plans of health insurance;~~ **such health benefit plans;** authorizing an insurer and the Consumer Advocate to request a public hearing on any rate or proposed rate increase or decrease of ~~such a policy, contract or plan of health insurance;~~ **such a health benefit plan** filed by the insurer with the Commissioner; authorizing a consumer of health insurance to request a public hearing on certain rates and proposed rate increases or decreases of ~~such a policy, contract or plan of health insurance;~~ **health benefit plan** filed by an insurer with the Commissioner; authorizing the Commissioner to hold a public hearing on a rate or proposed rate increase or

decrease of ~~such a policy, contract or plan of health insurance,~~ **health benefit plan** filed by an insurer; ~~removing,~~ **revising** certain provisions relating to trade secrets of insurers; providing a penalty; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**The Nevada Insurance Code is set forth in title 57 of NRS. Section 1 of this bill provides that no provision of the Code applies to Medicaid or the Children's Health Insurance Program.**

The Commissioner of Insurance has exclusive authority to regulate insurers in this State and to approve or disapprove rates or proposed rate increases of insurers. (Chapters 679B, 680A and 686B of NRS) **Section 2** of this bill creates the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry and requires the Governor to appoint a Consumer Advocate to serve as executive head of the office and to intervene in and represent the public interest in certain public hearings relating to rates or proposed rate increases or decreases for ~~certain policies, contracts or plans of health insurance,~~ **individual health benefit plans and group health plans for small employers.** **Section 3** of this bill requires an insurer to provide certain information to the Consumer Advocate and the Division, and **section 6** of this bill requires an insurer to publish on an Internet website maintained by the insurer the ~~provisions, terms, rates,~~ **base** premiums, certificates of coverage and actual and projected loss ratios of ~~each policy, contract or plan of health insurance,~~ **such health benefit plans** offered by the insurer to consumers in this State. **Section 6** also requires the Division to maintain a link to the Internet website of the insurer on an Internet website maintained by the Division.

**Section 7** of this bill authorizes the Commissioner to hold a public hearing before approving or denying a rate or proposed rate increase or decrease of ~~such a policy, contract or plan of health insurance,~~ **health benefit plan.** **Section 7** also authorizes an insurer, the Consumer Advocate or a consumer of health insurance to request such a public hearing. **Section 7** further requires the insurer and Commissioner to publish on an Internet website maintained by the insurer or Division, respectively, certain information relating to a request for approval of a rate or proposed rate increase or decrease, including the date by which a person must request a public hearing concerning a rate or proposed rate increase. **Section 12** of this bill requires that certain information be filed with the Commissioner and provides that **with certain exceptions relating to confidentiality and trade secrets,** the information which is filed by certain insurers is available to the public upon a written request.

Existing law prohibits the Commissioner from disclosing to a third party certain proprietary information of an insurer. (NRS 689A.695, 689B.115, 689C.250) **Sections 18-20** of this bill delete those provisions.

An insurer that violates the provisions of **section 3, 6, 7 or 21** of this bill is guilty of a misdemeanor. (NRS 679A.180)

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

**Section 1. NRS 679A.160 is hereby amended to read as follows:**

679A.160 Except as otherwise provided by specific statute, no provision of this Code applies to:

1. Fraternal benefit societies, as identified in chapter 695A of NRS, except as stated in chapter 695A of NRS.
2. Hospital, medical or dental service corporations, as identified in chapter 695B of NRS, except as stated in chapter 695B of NRS.
3. Motor clubs, as identified in chapter 696A of NRS, except as stated in chapter 696A of NRS.
4. Bail agents, as identified in chapter 697 of NRS, except as stated in NRS 680B.025 to 680B.039, inclusive, and chapter 697 of NRS.
5. Risk retention groups, as identified in chapter 695E of NRS, except as stated in chapter 695E of NRS.
6. Captive insurers, as identified in chapter 694C of NRS, with respect to their activities as captive insurers, except as stated in chapter 694C of NRS.
7. Health and welfare plans arising out of collective bargaining under chapter 288 of NRS, except that the Commissioner may review the plan to ensure that the benefits are reasonable in relation to the premiums and that the fund is financially sound.

**8. Medicaid or the Children's Health Insurance Program as described in chapter 422 of NRS.**

~~Section 1.1~~ **Sec. 1.5.** Chapter 679B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2. 1. The Office of the Consumer Advocate is hereby created within the Division. The Governor shall appoint the Consumer Advocate as the executive head of the office. The Consumer Advocate is not subject to the supervision or control of the Division or the Commissioner in carrying out his or her duties.**

**2. The Governor shall appoint the Consumer Advocate for a term of 4 years. The Consumer Advocate is in the unclassified service of the State.**

**3. The Consumer Advocate shall intervene in and represent the public interest in all public hearings conducted by the Commissioner pursuant to section 7 of this act.**

**4. The Consumer Advocate may apply to the Commissioner for the issuance of a subpoena pursuant to NRS 679B.340 for the appearance of witnesses or the production of books, papers and documents in any public hearing in which the Consumer Advocate intervenes and may make arrangements for and pay the fees or costs of any witnesses and consultants necessary to the public hearing.**

**5. The Commissioner may apply for any available grants and may accept any gifts, grants and donations from any source to defray the costs of the Consumer Advocate in carrying out his or her duties.**

~~5.~~ 6. To the extent money is available for this purpose, the Commissioner may employ in the unclassified service of the State any personnel necessary to assist with the duties and responsibilities of the Consumer Advocate.

~~6.~~ 7. The Governor may remove the Consumer Advocate from office for inefficiency, neglect of duty or malfeasance in office.

Sec. 3. 1. An insurer that offers any ~~policy, contract or plan of health insurance~~ health benefit plan in this State shall provide the Consumer Advocate and the Division with copies of any proposed changes in rates and any other information used to calculate a rate or proposed rate increase or decrease. Information provided to the Consumer Advocate and the Division pursuant to this section must be submitted in an electronic format prescribed by the Commissioner.

2. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

Sec. 4. NRS 679B.510 is hereby amended to read as follows:

679B.510 As used in NRS 679B.510 to 679B.560, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 679B.520, 679B.530 and 679B.540 have the meanings ascribed to them in those sections.

Sec. 5. Chapter 686B of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 7.5 of this act.

Sec. 6. 1. An insurer shall, on or before a date established by the Commissioner, publish on an Internet website maintained by the insurer the ~~provisions, terms, rates,~~ base premiums, certificates of coverage, projected loss ratio reported to the Department of Health and Human Services for the current fiscal year and the next following fiscal year ~~of each policy, contract or plan of health insurance~~ for each health benefit plan offered by the insurer in this State, and actual loss ratio ~~of each policy, contract or plan of health insurance~~ reported to the Department of Health and Human Services for the immediately preceding fiscal year for each health benefit plan offered by the insurer in this State. ~~for the immediately preceding fiscal year.~~ An insurer shall update the information published pursuant to this subsection each time the insurer changes or modifies ~~any provision, term, rate or~~ the base premium or certificate of coverage of such a ~~policy, contract or~~ health benefit plan and shall ensure that the information published pursuant to this subsection does not include any personally identifying information or confidential medical information.

2. The Division shall publish on an Internet website maintained by the Division a link to the Internet website maintained by each insurer on which information is published as required by subsection 1.

**3. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.**

**4. As used in this section, "loss ratio" has the meaning ascribed to it in section 2718(b)(1)(A) of the Public Health Service Act, as amended by Public Law 111-148.**

**Sec. 7. 1. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a ~~policy, contract or plan of health insurance~~ health benefit plan and upon a determination by the Commissioner that the proposal is complete, the insurer and Commissioner shall publish on an Internet website maintained by the insurer and Division, respectively, notice of the filing, any information relating to the rate or proposed rate increase or decrease, other than confidential medical information, and the date by which a request for a public hearing on the rate or proposed rate increase or decrease must be submitted pursuant to subsection 2.**

**2. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a ~~policy, contract or plan of health insurance~~ health benefit plan:**

**(a) The insurer or rate service organization that files the rate or proposed rate increase or decrease or the Consumer Advocate may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease; and**

**(b) A consumer of health insurance may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease if:**

**(1) The proposed rate increase or decrease is more than 10 percent of the current rate; or**

**(2) The ~~policy, contract or plan of health insurance~~ health benefit plan represents more than 5 percent of its market segment in the State, by submitting to the Commissioner a written request for a public hearing not later than ~~30~~ 28 days after the date of first publication of the notice of the rate or proposed rate increase or decrease pursuant to subsection 1.**

**3. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a ~~policy, contract or plan of health insurance~~ health benefit plan or upon a request for a public hearing pursuant to subsection 2, the Commissioner may conduct a public hearing on the rate or proposed rate increase or decrease. In determining whether a public hearing should be held upon a request submitted by a consumer of health insurance covered by a group health plan for small employers, the Commissioner may, without limitation, consider whether the consumer of health insurance is representative of a majority of the employees covered under the group health plan.**

4. *If the Commissioner determines that a public hearing should be held pursuant to subsection 3, the Commissioner shall provide notice to the insurer or rate service organization and to the general public of the public hearing not later than 15 days before the date of the public hearing and shall conduct the public hearing not later than 45 days after a determination by the Commissioner that the filing of the rate or proposed rate increase or decrease is complete.*

5. *Upon receipt of the notice of a public hearing from the Commissioner, an insurer or rate service organization shall provide notice of the public hearing on its website and to each of its policyholders who would be affected by the proposed change at his or her mailing address or electronic mailing address not later than 10 days before the date of the public hearing.*

6. *To the extent practicable, a public hearing that is conducted pursuant to this section on a weekday must be conducted after 5 p.m.*

7. *If a public hearing is conducted pursuant to subsection 3, the Commissioner, in addition to complying with the requirements of NRS 241.035, shall publish on an Internet website maintained by the Division:*

(a) *A transcript of the public hearing not later than ~~15~~ 30 days after the date of the hearing; and*

(b) *Any finding, decision or order of the Commissioner not later than 15 days after the date of issuance of the finding, decision or order.*

8. *The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.*

9. *As used in this section, "Consumer Advocate" means the Consumer Advocate appointed by the Governor pursuant to section 2 of this act.*

**Sec. 7.5. (Deleted by amendment.)**

**Sec. 8.** NRS 686B.010 is hereby amended to read as follows:

686B.010 1. The Legislature intends that NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act* be liberally construed to achieve the purposes stated in subsection 2, which constitute an aid and guide to interpretation but not an independent source of power.

2. The purposes of NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act are to:*

(a) Protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

(b) Encourage, as the most effective way to produce rates that conform to the standards of paragraph (a), independent action by and reasonable price competition among insurers;

(c) Provide formal regulatory controls for use if independent action and price competition fail;

(d) Authorize cooperative action among insurers in the rate-making process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition;

(e) Encourage the most efficient and economic marketing practices; and

(f) Regulate the business of insurance in a manner that will preclude application of federal antitrust laws.

**Sec. 9.** NRS 686B.020 is hereby amended to read as follows:

686B.020 As used in NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act*, unless the context otherwise requires:

1. "Advisory organization," except as limited by NRS 686B.1752, means any person or organization which is controlled by or composed of two or more insurers and which engages in activities related to rate making. For the purposes of this subsection, two or more insurers with common ownership or operating in this State under common ownership constitute a single insurer.

An advisory organization does not include:

(a) A joint underwriting association;

(b) An actuarial or legal consultant; or

(c) An employee or manager of an insurer.

2. "Market segment" means any line or kind of insurance or, if it is described in general terms, any subdivision thereof or any class of risks or combination of classes.

3. "Rate service organization" means any person, other than an employee of an insurer, who assists insurers in rate making or filing by:

(a) Collecting, compiling and furnishing loss or expense statistics;

(b) Recommending, making or filing rates or supplementary rate information; or

(c) Advising about rate questions, except as an attorney giving legal advice.

4. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rule of underwriting relating to rates and any other information prescribed by regulation of the Commissioner.

**Sec. 10.** NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, ~~and sections 6, 7 and 7.5 of this act, the provisions of~~ NRS 686B.010 to 686B.1799, inclusive, *and sections 6, 7 and 7.5 of this act* apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) ~~Group and blanket health insurance and credit~~ Credit health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; ~~and~~

(h) Surety insurance; ~~and~~ **and**

**(i) Contracts relating to Medicaid or the Children's Health Insurance Program as described in chapter 422 of NRS.**

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

**Sec. 11.** NRS 686B.040 is hereby amended to read as follows:

686B.040 1. Except as otherwise provided in subsection 2, the Commissioner may by rule exempt any person or class of persons or any market segment from any or all of the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 6, 7 and 7.5 of this act** if and to the extent that the Commissioner finds their application unnecessary to achieve the purposes of those sections.

2. The Commissioner may not, by rule or otherwise, exempt an insurer from the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 6, 7 and 7.5 of this act** with regard to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient.

**Sec. 12.** NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.140 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the Commissioner ~~all~~ **for approval:**

(a) ~~Rates~~ **All rates** and proposed **rate** increases ~~thereto~~ **or decreases;**

(b) ~~Forms~~ **All forms** of policies to which the rates apply;

(c) ~~Supplementary~~ **All supplementary** rate information; and

(d) ~~Changes and amendments thereof;~~

~~made by it for use in this state.~~ **Any formula, supporting data or other information used to calculate the rate or proposed rate increase or decrease filed pursuant to paragraph (a).**

2. If an insurer makes a filing for a proposed increase in a rate for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, the insurer shall not include in the filing any component that is directly or indirectly related to the following:

(a) Capital losses, diminished cash flow from any dividends, interest or other investment returns, or any other financial loss that is materially outside of the claims experience of the professional liability insurance industry, as determined by the Commissioner.

(b) Losses that are the result of any criminal or fraudulent activities of a director, officer or employee of the insurer.

↪ If the Commissioner determines that a filing includes any such component, the Commissioner shall, pursuant to NRS 686B.110, disapprove the proposed increase, in whole or in part, to the extent that the proposed increase relies upon such a component.

**3. A rate or proposed rate increase or decrease filed pursuant to subsection 1 must not go into effect until approved pursuant to NRS 686B.110.**

~~4. Except for the filing of a rate or proposed rate increase or decrease of a policy, contract or plan of health insurance issued to a group pursuant to NRS 689B.026, the~~ **The information submitted with the filing of a rate or proposed rate or rate increase pursuant to subsection 1, other than confidential medical information, ~~for~~ any information relating to the amount, terms or conditions of reimbursement pursuant to a contract between the insurer and a third party ~~for~~ or any information the Commissioner determines is a trade secret, is public and must be provided to any person upon written request.**

**5. As used in this section, "trade secret" has the meaning ascribed to it in subsection 5 of NRS 600A.030.**

**Sec. 13.** NRS 686B.090 is hereby amended to read as follows:

686B.090 1. An insurer shall establish rates and supplementary rate information for any market segment based on the factors in NRS 686B.060. If an insurer has insufficient creditable loss experience, it may use rates and supplementary rate information prepared by a rate service organization, with modification for its own expense and loss experience.

2. ~~An~~ **Except as otherwise provided in section 7 of this act, an** insurer may discharge its obligation under subsection 1 of NRS 686B.070 by giving notice to the Commissioner that it uses rates and supplementary rate information prepared by a designated rate service organization, with such information about modifications thereof as are necessary fully to inform the Commissioner. The insurer's rates and supplementary rate information shall be deemed those filed from time to time by the rate service organization, including any amendments thereto as filed, subject to the modifications filed by the insurer.

**Sec. 14.** NRS 686B.110 is hereby amended to read as follows:

686B.110 1. The Commissioner shall consider each **rate or** proposed increase or decrease in the rate of any kind or line of insurance or subdivision thereof filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 2 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal ~~for~~ :

**(a) If the Commissioner conducts a public hearing on the proposal pursuant to section 7 of this act, not later than ~~60~~ 30 days after ~~it is determined by~~ the date of the public hearing; or**

*(b) If no public hearing is held on the proposal pursuant to section 7 of this act, not later than ~~30~~ 45 days after the date on which the Commissioner determines the proposal to be complete pursuant to subsection ~~4~~ 5.*

2. If the Commissioner fails to approve or disapprove the proposal within ~~that~~ the period ~~1~~ specified in subsection 1, the proposal shall be deemed approved.

~~2~~ 3. Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

~~3~~ 4. If the Commissioner disapproves a *rate or* proposed rate *increase or decrease* and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~1~~, and sections 6, 7 and 7.5 of this act. Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

↪ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the *rate or* proposed rate *increase or decrease* for which the hearing is held within 45 days after the hearing, the proposed rate *or proposed rate increase or decrease* shall be deemed approved.

~~4~~ 5. The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal for a rate or to increase or decrease a rate ~~submitted to~~ filed with the Commissioner pursuant to subsection 1 ~~1~~ of NRS 686B.070. Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection.

**Sec. 15.** NRS 686B.117 is hereby amended to read as follows:

686B.117 If a filing made with the Commissioner pursuant to ~~paragraph (a) of~~ subsection 1 of NRS 686B.070 pertains to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, any interested person, and any association of persons or

organization whose members may be affected, may intervene as a matter of right in any hearing or other proceeding conducted to determine whether the applicable rate or proposed increase thereto:

1. Complies with the standards set forth in NRS 686B.050 and subsection 2 of NRS 686B.070.

2. Should be approved or disapproved.

**Sec. 16.** NRS 687B.120 is hereby amended to read as follows:

687B.120 1. No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~¶ This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.¶~~ As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at the request of the Commissioner.

2. Every ~~such~~ filing **made pursuant to subsection 1** must be made not less than 45 days in advance of any ~~such~~ delivery ~~¶~~ **pursuant to subsection 1**. At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which the Commissioner may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

3. Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the

expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

4. The Commissioner may, by order, exempt from the requirements of this section for so long as the Commissioner deems proper any insurance document or form or type thereof specified in the order, to which, in the opinion of the Commissioner, this section may not practicably be applied, or the filing and approval of which are, in the opinion of the Commissioner, not desirable or necessary for the protection of the public.

5. Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

**Sec. 17.** (Deleted by amendment.)

**Sec. 18.** NRS 689A.695 is hereby amended to read as follows:

689A.695 An individual carrier shall make the information and documents described in NRS 689A.680 to 689A.700, inclusive, available to the Commissioner upon request. ~~{Except in cases of violations of the provisions of this chapter, the information, other than the premium rates charged by the individual carrier, is proprietary, constitutes a trade secret and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.}~~

**Sec. 19.** NRS 689B.115 is hereby amended to read as follows:

689B.115 An insurer providing blanket health insurance shall make all information concerning rates available to the Commissioner upon request. ~~{The information is proprietary, constitutes a trade secret, and may not be disclosed by the Commissioner to any person outside the Division except as agreed by the insurer or ordered by a court of competent jurisdiction.}~~

**Sec. 20.** NRS 689C.250 is hereby amended to read as follows:

689C.250 A carrier serving small employers shall make the information and documents described in NRS 689C.210 to 689C.240, inclusive, available to the Commissioner upon request. ~~{Except in cases of violations of NRS 689C.015 to 689C.355, inclusive, the information is proprietary, constitutes a trade secret, and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.}~~

**Sec. 21.** Section 7 of this act is hereby amended to read as follows:

Sec. 7. 1. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan and upon a determination by the Commissioner that the proposal is complete, the insurer and Commissioner shall publish on an Internet website maintained by the insurer and Division, respectively, notice of the filing, any information relating to the rate or proposed rate increase or decrease, other than confidential medical information, and the date by which a request for a public hearing on the rate or proposed rate increase or decrease must be submitted pursuant to subsection 2.

2. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan:

(a) The insurer or rate service organization that files the rate or proposed rate increase or decrease ~~for the Consumer Advocate~~ may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease; and

(b) A consumer of health insurance may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease if:

(1) The proposed rate increase or decrease is more than 10 percent of the current rate; or

(2) The health benefit plan represents more than 5 percent of its market segment in the State,

↳ by submitting to the Commissioner a written request for a public hearing not later than 28 days after the date of first publication of the notice of the rate or proposed rate increase or decrease pursuant to subsection 1.

3. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan or upon a request for a public hearing pursuant to subsection 2, the Commissioner may conduct a public hearing on the rate or proposed rate increase or decrease. In determining whether a public hearing should be held upon a request submitted by a consumer of health insurance covered by a group health plan for small employers, the Commissioner may, without limitation, consider whether the consumer of health insurance is representative of a majority of the employees covered under the group health plan.

4. If the Commissioner determines that a public hearing should be held pursuant to subsection 3, the Commissioner shall provide notice to the insurer or rate service organization and to the general public of the public hearing not later than 15 days before the date of the public hearing and shall conduct the public hearing not later than 45 days after a determination by the Commissioner that the filing of the rate or proposed rate increase or decrease is complete.

5. Upon receipt of the notice of a public hearing from the Commissioner, an insurer or rate service organization shall provide notice of the public hearing on its website and to each of its policyholders who would be affected by the proposed change at his or her mailing address or electronic mailing address not later than 10 days before the date of the public hearing.

6. To the extent practicable, a public hearing that is conducted pursuant to this section on a weekday must be conducted after 5 p.m.

7. If a public hearing is conducted pursuant to subsection 3, the Commissioner, in addition to complying with the requirements of

NRS 241.035, shall publish on an Internet website maintained by the Division:

(a) A transcript of the public hearing not later than 30 days after the date of the hearing; and

(b) Any finding, decision or order of the Commissioner not later than 15 days after the date of issuance of the finding, decision or order.

8. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

~~9. As used in this section, "Consumer Advocate" means the Consumer Advocate appointed by the Governor pursuant to section 2 of this act.~~

**Sec. 22. (Deleted by amendment.)**

**Sec. 23. 1.** This section and sections 1 to **4, inclusive, 10, 12 and 15 to 20, inclusive, and 22** of this act become effective on July 1, 2011.

**2. Sections 5 to 9, inclusive, 11, 13 and 14 of this act become effective on October 1, 2011.**

~~3.~~ Sections 2, 3, ~~17,~~ 13 and 14 of this act expire by limitation on the date on which the Governor by proclamation declares that the money for funding the Office of the Consumer Advocate will no longer be available.

~~3. Sections~~

**4. Section 21 (and 22)** of this act ~~(become)~~ **becomes** effective on the date on which the Governor by proclamation declares that the money for funding the Office of the Consumer Advocate will no longer be available.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 597 to Assembly Bill No. 309 provides that no provision of the Nevada Insurance Code applies to Medicaid or to the Children's Health Insurance Program.

It also makes the bill applicable to health benefits plans rather than to any policy, contract, or plan of health insurance.

The amendment authorizes the Consumer Advocate to apply to the Commissioner of Insurance for the issuance of a subpoena under certain circumstances.

The amendment makes certain changes to the information an insurer is required to publish on an Internet website and protects from disclosure any information the Insurance Commissioner determines is a trade secret.

Finally, the amendment makes changes to the effective date of certain sections of the bill.

Amendment adopted.

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

Assembly Bill No. 360.

Bill read second time.

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

Amendment No. 748.

"SUMMARY—Revises provisions governing ~~the imposition of civil penalties for violations of~~ city or county ordinances regarding the abatement of certain conditions and nuisances on property within the city or county. (BDR 21-266)"

"AN ACT relating to local governments; **requiring a city or county to provide by ordinance that property owners have 30 days to abate a nuisance or dangerous or noxious condition under certain circumstances**; authorizing a city or county to collect civil penalties imposed for failure to abate certain conditions and nuisances on property within the city or county as a special assessment against the property under certain circumstances; revising provisions relating to the maximum amount of a civil penalty that may be imposed for failure to abate certain nuisances on property within the city or county under certain circumstances; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, if an owner of property within a city fails to abate a dangerous or noxious condition, a chronic nuisance or, in larger counties, an abandoned nuisance on the property after being directed to do so, the owner may be required to pay civil penalties as well as any costs incurred by the city to abate the condition or nuisance. In addition to any other reasonable means of recovering its abatement costs, the city is authorized to make those costs a special assessment against the property and collect the special assessment in the same manner as ordinary county taxes are collected. (NRS 268.4122-268.4126) Existing law sets forth parallel authority for counties to abate chronic nuisances and public nuisances and provides that abatement costs for public nuisances must be received as a special assessment against the affected property. (NRS 244.3603, 244.3605) **This bill provides that a city or county must allow a property owner at least 30 days to abate a condition or nuisance if the condition or nuisance: (1) is not an immediate danger to the public health, safety or welfare; and (2) was caused by the criminal activity of another person.** This bill authorizes a city or county to also collect any civil penalties imposed against the owner of the property as a special assessment against the property if the amount of the uncollected civil penalties after 12 months is more than \$5,000.

Under existing law, the maximum civil penalty that is authorized to be imposed on an owner of property in a city or county for failure to abate a chronic nuisance on the property is \$500 per day. (NRS 244.3603, 268.4124) **Sections 2 and 5** of this bill increase that maximum authorized civil penalty to ~~1,000~~ **\$750** per day if the relevant property is nonresidential property. **Section 3** of this bill provides a maximum civil penalty that a city may impose for the failure to abate an abandoned nuisance of ~~1,000~~ **\$750** per day against an owner of nonresidential property and \$500 per day against an owner of residential property.

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

**Section 1.** NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

- (a) Repair, safeguard or eliminate a dangerous structure or condition;
- (b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or
- (c) Clear weeds and noxious plant growth,

↳ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition. ~~and~~

**(2) If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.**

~~(3) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.~~

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant

to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

4. In addition to any other reasonable means ~~to~~ *for* recovering money expended by the city to abate the condition ~~it~~ *and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,* the governing body may make the expense *and civil penalties* a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. *Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:*

*(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;*

*(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and*

*(c) The amount of the uncollected civil penalties is more than \$5,000.*

6. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

**Sec. 2.** NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on the property of two or more nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the city attorney for legal action. ~~†, and†~~

**(2) If the nuisance is not an immediate danger to the public health, safety and welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the nuisance.**

**(3)** Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty :

***(1) If the property is nonresidential property, of not more than ~~†\$1,000†~~ \$750 per day; or***

***(2) If the property is residential property, of not more than \$500 per day ,***

➤ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance ~~††~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the governing body may make the expense ***and civil penalties*** a special assessment against the property

upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) ***At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;***

(b) ***The owner has been billed, served or otherwise notified that the civil penalties are due; and***

(c) ***The amount of the uncollected civil penalties is more than \$5,000.***

6. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) **"Commercial real estate" has the meaning ascribed to it in NRS 645.8711.**

(c) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~(c)~~ **(d)** "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~(c)~~ **(e)** "Nuisance activity" means:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
- (3) Excessive noise and violations of curfew; or
- (4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~(c)~~ **(f)** "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:

- (1) Entered, patronized or visited;
- (2) Attempted to enter, patronize or visit; or
- (3) Waited to enter, patronize or visit,

↳ a property or a person present on the property.

~~(f)~~ **(g)** "*Residential property*" means:

**(1) Improved real estate that consists of not more than four residential units;**

**(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or**

**(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.**

↳ **The term does not include commercial real estate.**

**Sec. 3.** NRS 268.4126 is hereby amended to read as follows:

268.4126 1. The governing body of each city which is located in a county whose population is 100,000 or more may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to seek:

- (a) The abatement of an abandoned nuisance that is located or occurring within the city;
- (b) The repair, safeguarding or demolition of any structure or property where an abandoned nuisance is located or occurring within the city;
- (c) Authorization for the city to take the actions described in paragraphs (a) and (b);
- (d) Civil penalties against an owner of any structure or property where an abandoned nuisance is located or occurring within the city; and
- (e) Any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

- (1) Sent notice, by certified mail, return receipt requested, by a person authorized by the city to issue a citation, of the existence on the property of

two or more abandoned nuisance activities and the date by which the owner must abate the abandoned nuisance to prevent the matter from being submitted to the city attorney for legal action. ~~† and†~~

(2) **If the abandoned nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the abandoned nuisance.**

~~(3)~~ Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the abandoned nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will, if the owner fails to abate the abandoned nuisance, recover money expended for labor and materials used to:

(1) Abate the abandoned nuisance on the property; or

(2) If applicable, repair, safeguard or demolish a structure or property where the abandoned nuisance is located or occurring.

3. If the court finds that an abandoned nuisance exists, the court shall order the owner of the property to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring, and may:

(a) **Impose a civil penalty:**

(1) ***If the property is nonresidential property, of not more than ~~†\$1,000†~~ \$750 per day; or***

(2) ***If the property is residential property, of not more than \$500 per day,***

***↪ for each day that the abandoned nuisance was not abated after the date specified in the notice by which the owner was required to abate the abandoned nuisance;***

(b) If applicable, order the owner of the property to pay reasonable expenses for the relocation of any tenants who occupy the property legally and who are affected by the abandoned nuisance;

~~†(c)†~~ (c) If the owner of the property fails to comply with the order:

(1) Direct the city to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring; and

(2) Order the owner of the property to pay the city for the cost incurred by the city in taking the actions described in subparagraph (1); and

~~†(d)†~~ (d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the abandoned nuisance ~~††~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the governing body of the city may make the expense ***and civil penalties*** a special assessment against

the property upon which the abandoned nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) ***At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the abandoned nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the abandoned nuisance, whichever is later;***

(b) ***The owner has been billed, served or otherwise notified that the civil penalties are due; and***

(c) ***The amount of the uncollected civil penalties is more than \$5,000.***

6. As used in this section:

(a) An "abandoned nuisance" exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 12 months or more and:

(1) Two or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or

(2) A person associated with the property has caused or engaged in two or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.

(b) "Abandoned nuisance activity" means:

(1) Instances of unlawful breaking and entering or occupancy by unauthorized persons;

(2) The presence of graffiti, debris, litter, garbage, rubble, abandoned materials, inoperable vehicles or junk appliances;

(3) The presence of unsanitary conditions or hazardous materials;

(4) The lack of adequate lighting, fencing or security;

(5) Indicia of the presence or activities of gangs;

(6) Environmental hazards;

(7) Violations of city codes, ordinances or other adopted policy; or

(8) Any other activity, behavior, conduct or condition defined by the governing body of the city to constitute a threat to the public health, safety or welfare of the residents of or visitors to the city.

(c) **"Commercial real estate" has the meaning ascribed to it in NRS 645.8711.**

(d) "Person associated with the property" means a person who, on the occasion of an abandoned nuisance activity, has:

(1) Entered, patronized or visited;

- (2) Attempted to enter, patronize or visit; or
- (3) Waited to enter, patronize or visit,

↪ a property or a person present on the property.

~~##~~ ***(e) "Residential property" means:***

***(1) Improved real estate that consists of not more than four residential units;***

***(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or***

***(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.***

↪ **The term does not include commercial real estate.**

**Sec. 4.** NRS 244.3601 is hereby amended to read as follows:

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 or 244.3605, a board of county commissioners may, by ordinance, provide for a reasonable means to secure or summarily abate a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger.

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

- (a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or
- (b) Posted on the property,

↪ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure or summarily abate the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that presents an immediate hazard. The owner of the structure or condition which is summarily abated must be given written notice of the abatement after its completion. The notice must state clearly that the owner of the property may seek judicial review of the summary abatement and must provide an address

and telephone number at which the owner may obtain additional information concerning the summary abatement.

4. The costs of securing or summarily abating the structure or condition may be made a special assessment against the real property on which the structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection ~~5~~ 6 of NRS 244.3605.

(b) "Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety, health or property of:

(1) The occupants, if any, of the real property on which the structure or condition is located; or

(2) The general public.

**Sec. 5.** NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on the owner's property of nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the district attorney for legal action. ~~It and~~

(2) **If the chronic nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the chronic nuisance.**

~~\_\_\_\_\_~~ (3) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty :

**(1) If the property is nonresidential property, of not more than ~~(\$1,000)~~ \$750 per day; or**

**(2) If the property is residential property, of not more than \$500 per day,**

↳ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance ~~and~~ **and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,** the board may make the expense **and civil penalties** a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. **Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the board unless:**

**(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;**

**(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and**

**(c) The amount of the uncollected civil penalties is more than \$5,000.**

6. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) ***"Commercial real estate" has the meaning ascribed to it in NRS 645.8711.***

~~(c)~~ ***(c)*** "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~(d)~~ ***(d)*** "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~(e)~~ ***(e)*** "Nuisance activity" means:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
- (3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;
- (4) Excessive noise and violations of curfew; or
- (5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~(f)~~ ***(f)*** "Person associated with the property" means:

- (1) The owner of the property;
  - (2) The manager or assistant manager of the property;
  - (3) The tenant of the property; or
  - (4) A person who, on the occasion of a nuisance activity, has:
    - (I) Entered, patronized or visited;
    - (II) Attempted to enter, patronize or visit; or
    - (III) Waited to enter, patronize or visit,
- ↳ the property or a person present on the property.

~~(g)~~ ***(g)*** "Residential property" means:

(1) ***Improved real estate that consists of not more than four residential units;***

(2) ***Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or***

(3) ***A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.***

↪ **The term does not include commercial real estate.**

**Sec. 6.** NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

- (a) Repair, safeguard or eliminate a dangerous structure or condition;
  - (b) Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS;
  - (c) Clear weeds and noxious plant growth; or
  - (d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section,
- ↪ to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

- (a) Contain procedures pursuant to which the owner of the property is:
  - (1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance ~~is and~~
  - (2) **If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.**
  - (3) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance if:

- (a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

4. In addition to any other reasonable means ~~to~~ *for* recovering money expended by the county to abate the public nuisance ~~it~~ *and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,* the expense ~~is~~ *and civil penalties are* a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. *Any civil penalties that have not been collected from the owner of the property are not a special assessment against the property pursuant to subsection 4 unless:*

*(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, whichever is later;*

*(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and*

*(c) The amount of the uncollected civil penalties is more than \$5,000.*

6. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

**Sec. 7.** This act becomes effective upon passage and approval.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 748 to Assembly Bill No. 360 provides that a local ordinance must state that if the nuisance or condition is not an immediate danger to the public health, safety, and welfare, and was caused by criminal activity of a person other than the property owner, the owner must be given at least 30 days to abate the nuisance. It reduces the proposed civil penalty for non-residential property from \$1,000 per day to \$750 per day. The amendment clarifies, for

the purposes of the bill that, "Residential property" does not include commercial real estate; and provides that the term "Commercial real estate" has the same meaning set forth in NRS 645.8711.

Amendment adopted.

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

Assembly Bill No. 398.

Bill read second time.

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

Amendment No. 619.

"SUMMARY—Revises provisions relating to commercial tenancies. (BDR 10-664)"

"AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; ~~establishing requirements for accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances;~~ setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Section 14** of this bill prohibits a landlord from interfering in certain manners with a tenant's use of commercial premises.

**Section 15** of this bill establishes a process for a tenant to recover possession of commercial premises from which a landlord has locked the tenant out.

**Section 15.5 of this bill provides that the justice court has jurisdiction over any civil action or proceeding concerning the exclusion of a tenant from commercial premises or the summary eviction of a tenant from commercial premises in which no party is seeking damages. Section 15.5 also provides that certain provisions of existing law governing actions for the recovery of a debt secured by a mortgage or other lien and the doctrines of res judicata and collateral estoppel do not apply to: (1) a claim by a landlord for contractual damages which is brought subsequent to an action by the landlord for the summary eviction of a tenant from commercial premises; or (2) an action by a landlord for the summary eviction of a tenant from commercial premises which is brought subsequent to a claim by the landlord for contractual damages.**

**Sections 16 and 27** of this bill repeal and reenact provisions authorizing a landlord to dispose of abandoned personal property left on commercial premises by a tenant under certain circumstances.

~~Sections 17-23 of this bill set forth requirements for the accounting for, refund of and charges against security deposits.~~

~~Section 24 of this bill prohibits a landlord from charging a tenant for rent or physical damages to commercial premises except under certain circumstances.~~

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

**Section 1.** Title 10 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 24, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 24, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act, have the meanings ascribed to them in those sections.*

**Sec. 3.** *"Abandoned personal property" means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has an ownership interest in the personal property within 14 days after the date on which the landlord mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by paragraph (a) of subsection 1 of section 16 of this act.*

**Sec. 4.** *"Action" includes a counterclaim, crossclaim, third-party claim or any other proceeding in which rights are determined.*

**Sec. 4.5.** *"Commercial premises" means any real property other than premises as defined in NRS 118A.140.*

**Sec. 5.** *"Court" means the district court, justice court or other court of competent jurisdiction situated in the county or township wherein the commercial premises are located.*

**Sec. 6.** *"Landlord" means a person who provides commercial premises for use by another person pursuant to a rental agreement.*

**Sec. 7.** *"Owner" means one or more persons, jointly or severally, in whom is vested:*

*1. All or part of the legal title to a commercial premises, except a trustee under a deed of trust who is not in possession of the commercial premises; or*

*2. All or part of the beneficial ownership, and a right to present use and enjoyment of the commercial premises.*

**Sec. 8.** *"Person" includes a government, a governmental agency and a political subdivision of a government.*

**Sec. 9.** *"Rent" means all periodic payments to be made to the landlord for occupancy of commercial premises, including, without limitation, all reasonable and actual late fees set forth in the rental agreement.*

**Sec. 10.** *"Rental agreement" means an agreement to lease or sublease commercial premises for a term less than life which provides for the periodic payment of rent.*

Sec. 11. ~~["Security deposit" means any advance of money, other than a deposit for a rental application or a payment in advance of rent, that is intended primarily to secure performance under a rental agreement.]~~  
**(Deleted by amendment.)**

Sec. 12. "Tenant" means a person who has the right to possess commercial premises pursuant to a rental agreement.

Sec. 13. The provisions of sections 2 to 24, inclusive, of this act apply only to the relationship between landlords and tenants of commercial premises.

Sec. 14. 1. A landlord or a landlord's agent may not interrupt or cause the interruption of utility service paid for directly to the utility company by a tenant unless the interruption results from construction, bona fide repairs or an emergency.

2. A landlord may not remove:

- (a) A door, window or attic hatchway cover;
- (b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or
- (c) Furniture, fixtures or appliances furnished by the landlord,  
 ↪ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.

3. A landlord may not intentionally prevent a tenant from entering the commercial premises except by judicial process unless the exclusion results from:

- (a) Construction, bona fide repairs or an emergency;
- (b) Removing the contents of commercial premises abandoned by a tenant; or
- (c) Changing the door locks of a tenant who is delinquent in paying at least part of the rent.

4. If a landlord or a landlord's agent changes the door lock of commercial premises leased to a tenant who is delinquent in paying rent, the landlord or agent must, for a period of not less than 5 business days, place a written notice on the front door of the commercial premises stating the name and the address or telephone number of the person or company from which the new key may be obtained. The new key is required to be provided only during the regular business hours of the tenant and only if the tenant pays the delinquent rent.

5. If a landlord or a landlord's agent violates this section, the tenant may:

- (a) Recover possession of the commercial premises ~~;~~ ~~for terminate the rental agreement.~~ and
- (b) Recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent or \$500, whichever is greater,

reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.

6. A rental agreement supersedes this section to the extent of any conflict.

Sec. 15. 1. If a landlord locks a tenant out of commercial premises that ~~is~~ are subject to a rental agreement in violation of section 14 of this act, the tenant may recover possession of the commercial premises as provided by this section.

2. A tenant must file with the justice court of the township in which the commercial premises are located ~~for with the district court of the county in which the commercial premises are located, whichever has jurisdiction over the matter,~~ a verified complaint for reentry, specifying the facts of the alleged unlawful lockout by the landlord or the landlord's agent. The tenant must also state orally under oath to the court the facts of the alleged unlawful lockout.

3. If a tenant has complied with subsection 2 and if the court reasonably believes an unlawful lockout may have occurred, the court :

(a) Shall issue an order requiring the tenant to post a bond in an amount equal to 1 month of rent; and

(b) Upon the posting of the bond, may issue, ex parte, a temporary writ of restitution that entitles the tenant to immediate and temporary possession of the commercial premises, pending a final hearing on the tenant's verified complaint for reentry.

4. A temporary writ of restitution must be served on the landlord or the landlord's agent in the same manner as a writ of restitution in a forcible detainer action. A sheriff or constable may use reasonable force in executing a temporary writ of restitution under this subsection.

5. ~~[A landlord is entitled to]~~ The court shall hold a hearing on a tenant's verified complaint for reentry. A temporary writ of restitution must notify the landlord of the ~~[right to a hearing,~~ pendency of the matter and the date of the hearing. The hearing must be held not earlier than the first judicial day and not later than the ~~[seventh]~~ fifth judicial day after the date on which the ~~[landlord requests a hearing,~~ court issues the temporary writ of restitution.

6. ~~[If a landlord fails to request a hearing on a tenant's verified complaint for reentry before the eighth day after the date of service of the temporary writ of restitution on the landlord under subsection 4, a judgment for court costs may be rendered against the landlord.~~

~~7.]~~ A party may appeal from the court's judgment at the hearing on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

~~8.]~~ 7. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.

~~9.]~~ 8. If the landlord or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ,

~~the failure is grounds for contempt of court against the landlord or the person on whom the writ was served, under chapter 22 of NRS. ~~If the writ is disobeyed, the tenant or the tenant's attorney may file in the court in which the reentry action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience. On receipt of an affidavit, the court shall issue an order to show cause, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court. If the court finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, the court may commit the person to jail without bail until the person purges himself or herself of the contempt in a manner and form as the court may direct. If the person disobeyed the writ before receiving the order to show cause but has complied with the writ after receiving the order, the court may find the person in contempt and punish the person under chapter 22 of NRS.~~~~

~~10.7 9.~~ This section does not affect a tenant's right to pursue a separate cause of action under section 14 of this act.

~~11.7 10.~~ If a tenant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.

~~12.7 12.~~ The fee for filing a verified complaint for reentry is the same as that for filing a civil action in the court in which the verified complaint is filed. The court may defer payment of the tenant's filing fees and service costs for the verified complaint for reentry and writ of restitution. Court costs may be waived only if the tenant files an affidavit under NRS 12.015.

~~13.7 11.~~ This section does not affect the rights of a landlord or tenant in a forcible detainer, unlawful detainer or forcible entry and detainer action.

Sec. 15.5. 1. Except as otherwise provided in subsection 2, the justice court has jurisdiction over any civil action or proceeding concerning the exclusion of a tenant from commercial premises or the summary eviction of a tenant from commercial premises in which no party is seeking damages.

2. If a landlord combines an action for summary eviction of a tenant from commercial premises with a claim to recover contractual damages, jurisdiction over the claims rests with the court which has jurisdiction over the amount in controversy.

3. The provisions of NRS 40.430 and the doctrines of res judicata and collateral estoppel do not apply to:

(a) A claim by a landlord for contractual damages which is brought subsequent to an action by the landlord for the summary eviction of a tenant from commercial premises; or

*(b) An action by a landlord for the summary eviction of a tenant from commercial premises which is brought subsequent to a claim by the landlord for contractual damages.*

Sec. 16. 1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. A tenant of commercial premises is presumed to have abandoned the premises if:

(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and

(b) The removal is not within the normal course of business of the tenant.

3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.

4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 17. ~~H. A landlord shall refund a security deposit to a tenant not later than 60 days after the date on which the tenant surrenders the commercial premises and provides notice to the landlord or the landlord's agent of the mailing address of the tenant pursuant to section 21 of this act.~~

~~2. A claim of a tenant to a security deposit to which the tenant is entitled takes priority over the claim of any creditor of the landlord, including a trustee in bankruptcy. (Deleted by amendment.)~~

~~Sec. 18. 1. Before returning a security deposit, a landlord may deduct from the deposit damages and charges for which the tenant is legally liable under the rental agreement or damages and charges that result from a breach of the rental agreement.~~

~~2. A landlord may not retain any portion of a security deposit to cover normal wear and tear. For the purposes of this subsection, "normal wear and tear" means deterioration that results from the intended use of the commercial premises, including breakage or malfunction because of age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident or abuse of the commercial premises, equipment, or chattels by the tenant or by a guest or invitee of the tenant.~~

~~3. If a landlord retains all or part of a security deposit under this section, the landlord shall give to the tenant the balance of the security deposit, if any, together with a written description and itemized list of all deductions. The landlord is not required to give the tenant a description and itemized list of deductions if:~~

~~(a) The tenant owes rent when the tenant surrenders possession of the commercial premises; and~~

~~(b) No controversy exists concerning the amount of rent owed. (Deleted by amendment.)~~

~~Sec. 19. 1. Except as otherwise provided in subsection 1, if an owner's interest in commercial premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy or otherwise, the new owner is liable with respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act from the date title to the premises is acquired, regardless of whether an acknowledgment is given to the tenant under subsection 2.~~

~~2. Except as otherwise provided in subsection 1, a person who no longer owns an interest in the commercial premises remains liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.~~

~~3. The amount of a security deposit for which a new owner is liable pursuant to this section is the greater of:~~

~~(a) The amount provided in the tenant's rental agreement; or~~

~~(b) The amount provided in an estoppel certificate prepared by the owner at the time the rental agreement was executed or prepared by the new owner at the time the commercial premises is transferred.~~

~~4. Subsection 1 does not apply to a person who acquires title to the premises by foreclosure. (Deleted by amendment.)~~

~~Sec. 20. [A landlord shall keep accurate records of all security deposits.] (Deleted by amendment.)~~

~~Sec. 21. [1. A landlord is not obligated to return a security deposit to a tenant or give the tenant a written description of damages and charges until the tenant provides to the landlord in writing a mailing address to which the security deposit or written description are to be sent.~~

~~2. A tenant does not forfeit the right to a refund of a security deposit or the right to receive a description of damages and charges for failing to give a mailing address to the landlord.] (Deleted by amendment.)~~

~~Sec. 22. [1. A tenant may not withhold payment of any portion of the last month's rent on grounds that a security deposit is security for unpaid rent.~~

~~2. A tenant who violates this section is presumed to have acted in bad faith. A tenant who in bad faith violates this section is liable to the landlord for an amount equal to three times the rent wrongfully withheld and the landlord's reasonable attorney's fees in an action to recover the rent.] (Deleted by amendment.)~~

~~Sec. 23. [1. A landlord who in bad faith retains a security deposit in violation of sections 2 to 24, inclusive, of this act is liable for an amount equal to the sum of \$100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees incurred in an action to recover the deposit after the period prescribed for returning the deposit expires.~~

~~2. A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of sections 2 to 24, inclusive, of this act:~~

~~(a) Forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the commercial premises; and~~

~~(b) Is liable for the tenant's reasonable attorney's fees in an action to recover the deposit.~~

~~3. In an action brought by a tenant under sections 2 to 24, inclusive, of this act, the landlord has the burden of proving that the retention of any portion of a security deposit was reasonable.~~

~~4. Except as otherwise provided in subsection 1 of section 21 of this act, a landlord who fails to return a security deposit or to provide a written description and itemized list of deductions within 60 days after the date the tenant surrenders possession of the commercial premises is presumed to have acted in bad faith.] (Deleted by amendment.)~~

~~Sec. 24. [1. A landlord may not assess a charge, excluding a charge for rent or physical damage to the commercial premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the rental agreement, an exhibit or attachment that is part of the rental agreement or an amendment to the rental agreement.~~

~~2. This section does not affect the right of a landlord to assess a charge or obtain a remedy allowed under a statute or common law.~~ **(Deleted by amendment.)**

**Sec. 25.** NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to ~~118.207,~~ **118.205**, inclusive, unless the context otherwise requires:

1. ~~"Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:~~

~~—(a) Mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of NRS 118.207; or~~

~~—(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of NRS 118.207.~~

~~2.~~ "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~3.~~ 2. "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~4.~~ 3. "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

**Sec. 26.** NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➤ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the

request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS ~~118.207~~ ~~or~~ 118A.460 *or section 16 of this act* for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

↳ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 **or section 16 of this act** and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

**Sec. 26.5. NRS 40.430 is hereby amended to read as follows:**

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, **and except as otherwise provided in section 15.5 of this act**, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the

encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

**Sec. 27.** NRS 118.207 is hereby repealed.

**TEXT OF REPEALED SECTION**

**118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.**

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) The landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

↪ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized

representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Senator Breeden moved the adoption of the amendment.

Remarks by Senators Breeden, Hardy and Brower.

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

SENATOR BREEDEN:

Amendment No. 619 to Assembly Bill No. 398 deletes provisions in the bill relating to security deposits for commercial tenancies.

The amendment specifies when a justice court has jurisdiction over a commercial premises eviction.

It also makes changes in the procedural requirements for initiating commercial evictions and for processing them in the courts.

SENATOR HARDY:

Thank you, Mr. President. On page 2 of the amendment, line 10 has a Latin phrase "res judicata and collateral estoppel." I would like those terms clarified.

SENATOR BROWER:

The doctrines of res judicata and collateral estoppel essentially refer to if a matter is fully litigated in a case in favor of one party and against another party, then it cannot be relitigated in another case involved with the same parties or one of the parties depending on the circumstances.

Res judicata means if it has been decided once, it cannot be relitigated again. Collateral estoppel is similar to res judicata but usually refers to a particular issue as opposed to an entire case.

Amendment adopted.

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

Amendment No. 778.

"SUMMARY—Revises provisions relating to commercial tenancies. (BDR 10-664)"

"AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; establishing requirements for

accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances; setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Section 14** of this bill prohibits a landlord from interfering in certain manners with a tenant's use of commercial premises.

**Section 15** of this bill establishes a process for a tenant to recover possession of commercial premises from which a landlord has locked the tenant out.

**Sections 16 and 27** of this bill repeal and reenact provisions authorizing a landlord to dispose of abandoned personal property left on commercial premises by a tenant under certain circumstances.

**Sections 17-23** of this bill set forth requirements for the accounting for, refund of and charges against security deposits.

**Section 24** of this bill prohibits a landlord from charging a tenant for rent or physical damages to commercial premises except under certain circumstances.

**Section 26.3 of this bill revises provisions governing the granting of a stay of execution to a tenant of commercial property who appeals an order of eviction by providing that the tenant may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.**

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

**Section 1.** Title 10 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 24, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 24, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act, have the meanings ascribed to them in those sections.*

**Sec. 3.** *"Abandoned personal property" means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has an ownership interest in the personal property within 14 days after the date on which the landlord mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by paragraph (a) of subsection 1 of section 16 of this act.*

**Sec. 4.** *"Action" includes a counterclaim, crossclaim, third-party claim or any other proceeding in which rights are determined.*

Sec. 4.5. *"Commercial premises" means any real property other than premises as defined in NRS 118A.140.*

Sec. 5. *"Court" means the district court, justice court or other court of competent jurisdiction situated in the county or township wherein the commercial premises are located.*

Sec. 6. *"Landlord" means a person who provides commercial premises for use by another person pursuant to a rental agreement.*

Sec. 7. *"Owner" means one or more persons, jointly or severally, in whom is vested:*

1. *All or part of the legal title to a commercial premises, except a trustee under a deed of trust who is not in possession of the commercial premises; or*

2. *All or part of the beneficial ownership, and a right to present use and enjoyment of the commercial premises.*

Sec. 8. *"Person" includes a government, a governmental agency and a political subdivision of a government.*

Sec. 9. *"Rent" means all periodic payments to be made to the landlord for occupancy of commercial premises, including, without limitation, all reasonable and actual late fees set forth in the rental agreement.*

Sec. 10. *"Rental agreement" means an agreement to lease or sublease commercial premises for a term less than life which provides for the periodic payment of rent.*

Sec. 11. *"Security deposit" means any advance of money, other than a deposit for a rental application or a payment in advance of rent, that is intended primarily to secure performance under a rental agreement.*

Sec. 12. *"Tenant" means a person who has the right to possess commercial premises pursuant to a rental agreement.*

Sec. 13. *The provisions of sections 2 to 24, inclusive, of this act apply only to the relationship between landlords and tenants of commercial premises.*

Sec. 14. 1. *A landlord or a landlord's agent may not interrupt or cause the interruption of utility service paid for directly to the utility company by a tenant unless the interruption results from construction, bona fide repairs or an emergency.*

2. *A landlord may not remove:*

(a) *A door, window or attic hatchway cover;*

(b) *A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or*

(c) *Furniture, fixtures or appliances furnished by the landlord,*

*↪ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.*

3. *A landlord may not intentionally prevent a tenant from entering the commercial premises except by judicial process unless the exclusion results from:*

- (a) Construction, bona fide repairs or an emergency;*
- (b) Removing the contents of commercial premises abandoned by a tenant; or*
- (c) Changing the door locks of a tenant who is delinquent in paying at least part of the rent.*

4. *If a landlord or a landlord's agent changes the door lock of commercial premises leased to a tenant who is delinquent in paying rent, the landlord or agent must place a written notice on the front door of the commercial premises stating the name and the address or telephone number of the person or company from which the new key may be obtained. The new key is required to be provided only during the regular business hours of the tenant and only if the tenant pays the delinquent rent.*

5. *If a landlord or a landlord's agent violates this section, the tenant may:*

- (a) Recover possession of the commercial premises or terminate the rental agreement; and*
- (b) Recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.*

6. *A rental agreement supersedes this section to the extent of any conflict.*

Sec. 15. 1. *If a landlord locks a tenant out of commercial premises that ~~is~~ are subject to a rental agreement in violation of section 14 of this act, the tenant may recover possession of the commercial premises as provided by this section.*

2. *A tenant must file with the justice court of the township in which the commercial premises are located or with the district court of the county in which the commercial premises are located, whichever has jurisdiction over the matter, a verified complaint for reentry, specifying the facts of the alleged unlawful lockout by the landlord or the landlord's agent. The tenant must also state orally under oath to the court the facts of the alleged unlawful lockout.*

3. *If a tenant has complied with subsection 2 and if the court reasonably believes an unlawful lockout may have occurred, the court may issue, ex parte, a temporary writ of restitution that entitles the tenant to immediate and temporary possession of the commercial premises, pending a final hearing on the tenant's verified complaint for reentry.*

4. *A temporary writ of restitution must be served on the landlord or the landlord's agent in the same manner as a writ of restitution in a forcible*

*detainer action. A sheriff or constable may use reasonable force in executing a temporary writ of restitution under this subsection.*

*5. A landlord is entitled to a hearing on a tenant's verified complaint for reentry. A temporary writ of restitution must notify the landlord of the right to a hearing. The hearing must be held not earlier than the first day and not later than the seventh day after the date the landlord requests a hearing.*

*6. If a landlord fails to request a hearing on a tenant's verified complaint for reentry before the eighth day after the date of service of the temporary writ of restitution on the landlord under subsection 4, a judgment for court costs may be rendered against the landlord.*

*7. A party may appeal from the court's judgment at the hearing on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.*

*8. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.*

*9. If the landlord or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the landlord or the person on whom the writ was served, under chapter 22 of NRS. If the writ is disobeyed, the tenant or the tenant's attorney may file in the court in which the reentry action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience. On receipt of an affidavit, the court shall issue an order to show cause, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court. If the court finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, the court may commit the person to jail without bail until the person purges himself or herself of the contempt in a manner and form as the court may direct. If the person disobeyed the writ before receiving the order to show cause but has complied with the writ after receiving the order, the court may find the person in contempt and punish the person under chapter 22 of NRS.*

*10. This section does not affect a tenant's right to pursue a separate cause of action under section 14 of this act.*

*11. If a tenant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.*

*12. The fee for filing a verified complaint for reentry is the same as that for filing a civil action in the court in which the verified complaint is filed. The court may defer payment of the tenant's filing fees and service*

*costs for the verified complaint for reentry and writ of restitution. Court costs may be waived only if the tenant files an affidavit under NRS 12.015.*

*13. This section does not affect the rights of a landlord or tenant in a forcible detainer, unlawful detainer or forcible entry and detainer action.*

*Sec. 16. 1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:*

*(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.*

*(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).*

*(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.*

*2. A tenant of commercial premises is presumed to have abandoned the premises if:*

*(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and*

*(b) The removal is not within the normal course of business of the tenant.*

*3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.*

*4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.*

*Sec. 17. 1. A landlord shall refund a security deposit to a tenant not later than 60 days after the date on which the tenant surrenders the commercial premises and provides notice to the landlord or the landlord's agent of the mailing address of the tenant pursuant to section 21 of this act.*

2. *A claim of a tenant to a security deposit to which the tenant is entitled takes priority over the claim of any creditor of the landlord, including a trustee in bankruptcy.*

Sec. 18. 1. *Before returning a security deposit, a landlord may deduct from the deposit damages and charges for which the tenant is legally liable under the rental agreement or damages and charges that result from a breach of the rental agreement.*

2. *A landlord may not retain any portion of a security deposit to cover normal wear and tear. For the purposes of this subsection, "normal wear and tear" means deterioration that results from the intended use of the commercial premises, including breakage or malfunction because of age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident or abuse of the commercial premises, equipment, or chattels by the tenant or by a guest or invitee of the tenant.*

3. *If a landlord retains all or part of a security deposit under this section, the landlord shall give to the tenant the balance of the security deposit, if any, together with a written description and itemized list of all deductions. The landlord is not required to give the tenant a description and itemized list of deductions if:*

(a) *The tenant owes rent when the tenant surrenders possession of the commercial premises; and*

(b) *No controversy exists concerning the amount of rent owed.*

Sec. 19. 1. *Except as otherwise provided in subsection 4, if an owner's interest in commercial premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy or otherwise, the new owner is liable with respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act from the date title to the premises is acquired, regardless of whether an acknowledgment is given to the tenant under subsection 2.*

2. *Except as otherwise provided in subsection 1, a person who no longer owns an interest in the commercial premises remains liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.*

3. *The amount of a security deposit for which a new owner is liable pursuant to this section is the greater of:*

(a) *The amount provided in the tenant's rental agreement; or*

(b) *The amount provided in an estoppel certificate prepared by the owner at the time the rental agreement was executed or prepared by the new owner at the time the commercial premises is transferred.*

4. *Subsection 1 does not apply to a person who acquires title to the premises by foreclosure.*

Sec. 20. *A landlord shall keep accurate records of all security deposits.*

**Sec. 21. 1.** *A landlord is not obligated to return a security deposit to a tenant or give the tenant a written description of damages and charges until the tenant provides to the landlord in writing a mailing address to which the security deposit or written description are to be sent.*

**2.** *A tenant does not forfeit the right to a refund of a security deposit or the right to receive a description of damages and charges for failing to give a mailing address to the landlord.*

**Sec. 22. 1.** *A tenant may not withhold payment of any portion of the last month's rent on grounds that a security deposit is security for unpaid rent.*

**2.** *A tenant who violates this section is presumed to have acted in bad faith. A tenant who in bad faith violates this section is liable to the landlord for an amount equal to three times the rent wrongfully withheld and the landlord's reasonable attorney's fees in an action to recover the rent.*

**Sec. 23. 1.** *A landlord who in bad faith retains a security deposit in violation of sections 2 to 24, inclusive, of this act is liable for an amount equal to the sum of \$100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees incurred in an action to recover the deposit after the period prescribed for returning the deposit expires.*

**2.** *A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of sections 2 to 24, inclusive, of this act:*

*(a) Forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the commercial premises; and*

*(b) Is liable for the tenant's reasonable attorney's fees in an action to recover the deposit.*

**3.** *In an action brought by a tenant under sections 2 to 24, inclusive, of this act, the landlord has the burden of proving that the retention of any portion of a security deposit was reasonable.*

**4.** *Except as otherwise provided in subsection 1 of section 21 of this act, a landlord who fails to return a security deposit or to provide a written description and itemized list of deductions within 60 days after the date the tenant surrenders possession of the commercial premises is presumed to have acted in bad faith.*

**Sec. 24. 1.** *A landlord may not assess a charge, excluding a charge for rent or physical damage to the commercial premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the rental agreement, an exhibit or attachment that is part of the rental agreement or an amendment to the rental agreement.*

**2.** *This section does not affect the right of a landlord to assess a charge or obtain a remedy allowed under a statute or common law.*

**Sec. 25.** NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to ~~118.207~~ **118.205**, inclusive, unless the context otherwise requires:

1. ~~["Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:~~

~~—(a) Mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of NRS 118.207; or~~

~~—(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of NRS 118.207.~~

~~2.] "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.~~

~~3.] 2. "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.~~

~~4.] 3. "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.~~

**Sec. 26.** NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

↪ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of

NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 *or section 16 of this act* for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

- (a) The tenant has vacated or been removed from the premises; and
  - (b) A copy of those charges has been requested by or provided to the tenant,
- ↳ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

- (a) Determine the costs, if any, claimed by the landlord pursuant to NRS ~~118.207 or~~ 118A.460 *or section 16 of this act* and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

**Sec. 26.3. NRS 40.385 is hereby amended to read as follows:**

40.385 Upon an appeal from an order entered pursuant to NRS 40.253:

1. Except as otherwise provided in this subsection, a stay of execution may be obtained by filing with the trial court a bond in the amount of \$250 to cover the expected costs on appeal. ~~In an action concerning a lease of commercial property or any other property for which the monthly rent exceeds \$1,000, the court may, upon its own motion or that of a party, and upon a showing of good cause, order an additional bond to be posted to cover the expected costs on appeal.~~ A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action. **A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.**

2. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253.

**Sec. 27.** NRS 118.207 is hereby repealed.

**TEXT OF REPEALED SECTION**

**118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.**

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions,

dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) The landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➔ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 778 to Assembly Bill No. 398 adds a provision governing the granting of a stay of execution to a tenant of a commercial property who appeals an order of eviction.

Amendments adopted.

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

Assembly Bill No. 459.

Bill read second time and ordered to third reading.

Assembly Bill No. 478.

Bill read second time and ordered to third reading.

UNFINISHED BUSINESS  
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 193.

The following Assembly amendment was read:

Amendment No. 568.

"SUMMARY—Makes various changes concerning the State Board of Cosmetology and persons and practices regulated by the Board. (BDR 54-637)"

"AN ACT relating to cosmetology; **revising certain provisions governing schools of cosmetology; establishing the procedures for the licensure of certain persons who engage in the practice of hair braiding and persons who operate an establishment for hair braiding;** revising provisions relating to the regulation of sanitary conditions; revising provisions relating to the licensure of various cosmetology professionals and cosmetological establishments; repealing a provision relating to the provision of a surety bond by a school of cosmetology; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law requires the State Board of Cosmetology to determine the qualifications of applicants for various licenses in cosmetology, requires the Board to license schools of cosmetology, and authorizes the Board to adopt regulations governing the sanitary conditions in cosmetological establishments, schools of cosmetology and in the practice of cosmetology. (NRS 644.090, 644.120)

~~The~~ **Section 6 of this bill: (1) prohibits a school of cosmetology from collecting the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology when the student enters into a contract with the school of cosmetology; (2) authorizes a school of cosmetology to collect certain periodic payments from students; and (3)**

**requires a school of cosmetology to use the contract for enrollment that was submitted to and approved by the Board.**

**Sections 7-9 of this bill establish a new license as a hair braider and set forth the requirements, including passing certain examinations, that must be met before the Board may issue such a license to a person. Section 7 sets forth the requirements for obtaining such a license for persons who have not previously practiced hair braiding or who have practiced hair braiding in this State on certain relatives without accepting compensation. Section 8 sets forth the requirements for persons who have practiced hair braiding in another state. Section 9 sets forth the scope of the examinations that are required to obtain a license to practice hair braiding. Section 24 of this bill provides an exemption from the licensure requirements for a person who, without accepting compensation, practices hair braiding on a person who is related within the sixth degree of consanguinity.**

**Section 10 of this bill establishes a new license for persons who wish to operate an establishment for hair braiding and sets forth the requirements that must be met before the Board may issue such a license. Sections 11-16 of this bill set forth additional requirements governing an establishment for hair braiding, including, without limitation, requirements relating to the notice which must be provided to the Board concerning a change of ownership or location and requirements relating to the qualifications of the person who must supervise the operation of such an establishment.**

**Under existing law, the** Board is also required to provide for the registration of any person who engages in the practice of threading, and is authorized to inspect any facility in which threading is conducted. (NRS 644.331) **Section ~~11~~ 22** of this bill authorizes the Board to include the practice of threading and any facility in which it is conducted in its regulations regarding sanitary conditions. **Sections ~~12-21~~ 26-31 and 35** of this bill add United States citizenship or the legal right to remain and work in the United States to the requirements for applicants seeking licensure by the Board.

Existing law requires that schools of cosmetology post with the Board a surety bond as part of licensure. (NRS 644.383) **Section ~~110~~ 43** of this bill repeals that requirement.

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

**Section 1. NRS 640C.100 is hereby amended to read as follows:**

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck

or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, ***hair designer, hair braider***, cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, ***hair designer, hair braider***, cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy on athletes.

(e) Students enrolled in a school of massage therapy recognized by the Board.

(f) A person who practices massage therapy solely on members of his or her immediate family.

(g) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, "immediate family" means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

**Sec. 2. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.**

**Sec. 3. "Establishment for hair braiding" means any premises, mobile unit, building or part of a building where hair braiding is practiced, other than a cosmetological establishment.**

**Sec. 4. "Hair braider" means any person who engages in the practice of hair braiding.**

**Sec. 5. 1. "Hair braiding" means a natural form of hair manipulation by braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving or wrapping human hair, natural fibers, synthetic fibers and hair extensions. The practice may be performed by hand or by using simple braiding devices, including, without limitation, clips, combs, hairpins, scissors, needles and thread.**

**2. The term includes:**

**(a) Cleansing the scalp; and**

(b) The making of customized wigs from natural hair, natural fibers, synthetic fibers and hair extensions.

3. The term does not include:

(a) The use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles or chemical hair bleaching agents applied to growing human hair;

(b) The cutting or growing of human hair, except that the term includes the trimming of hair extensions or sewn weave-in extensions only as applicable to the braiding process; or

(c) Any other activity set forth in the definition of "cosmetologist" pursuant to NRS 644.023 other than the activities expressly set forth in subsections 1 and 2.

Sec. 6. 1. A school of cosmetology shall not:

(a) Collect the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology at the time the student enters into a contract with the school of cosmetology; or

(b) Except for an initial payment of not more than 25 percent of the total amount of the cost for the program at the school, invoice or collect from a student a periodic payment toward the cost for the quarter of the program at the school of cosmetology until at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.

2. A school of cosmetology shall use the contract for the enrollment of a student in a program at the school of cosmetology that was submitted to and approved by the Board, including any revisions approved by the Board pursuant to subsection 3, to contract with the student of cosmetology. The approved contract must include, without limitation:

(a) A notice indicating that the school of cosmetology is not required to post a surety bond with the Board; and

(b) A provision indicating that the school of cosmetology is authorized to collect:

(1) Not more than 25 percent of the total amount of the cost for the program at the school of cosmetology from a student at the time the student enters into the contract with the school of cosmetology; and

(2) Additional periodic payments in increments of not more than 25 percent of the total amount of the cost for the program for each quarter of the program. This amount may be collected by the school of cosmetology when at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.

3. The school of cosmetology shall submit to the Board for its approval a notice detailing any revisions to the approved contract. The revisions must be approved by the Board before the school of cosmetology may use the revised contract. The revisions shall be deemed to be approved by the

Board if the revisions are not disapproved by the Board within 60 days after their submission to the Board.

4. The Board:

(a) Shall respond to any complaints with regard to a contract between a school of cosmetology and a student of cosmetology; and

(b) If the Board or its staff has reason to believe that a school of cosmetology has not complied with any provisions governing such a contract, may require the school of cosmetology to submit for review its current contract for the enrollment of a student or may conduct an inspection of the school of cosmetology.

Sec. 7. 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has not practiced hair braiding previously:

(1) Has completed a minimum of 250 hours of training and education as follows:

(I) Fifty hours concerning the laws of Nevada and the regulations of the Board relating to cosmetology;

(II) Seventy-five hours concerning infection control and sanitation;

(III) Seventy-five hours regarding the health of the scalp and the skin of the human body; and

(IV) Fifty hours of clinical practice; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in this State on a person who is related within the sixth degree of consanguinity without a license and without charging a fee:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year on such a relative; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 8. 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has practiced hair braiding in another state, has applied to the Board in proper form and paid a fee of \$200, and who:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has practiced hair braiding in another state in accordance with a license issued in that other state:

(1) Has submitted to the Board proof of the license; and

(2) Has passed the written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in another state without a license and it is legal in that state to practice hair braiding without a license:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 9. 1. The examination for licensure as a hair braider pursuant to paragraph (e) of subsection 1 of section 8 of this act must include:

(a) A written test on antisepsis, sterilization and sanitation; and

(b) A written test on the laws of Nevada and the regulations of the Board relating to cosmetology.

2. The examination for licensure as a hair braider pursuant to section 7 or paragraph (f) of subsection 1 of section 8 of this act must include:

(a) The written tests described in subsection 1; and

(b) A practical demonstration in hair braiding.

Sec. 10. 1. Any person wishing to operate an establishment for hair braiding must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed establishment for hair braiding and proof of any particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the establishment for hair braiding complies with the requirements of this chapter and any regulations adopted by the Board. If, based on the verbal review, the Board determines that the establishment for hair braiding meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the establishment for hair braiding not later than 90 days after the date on which the license is activated.

3. The fee for a license for an establishment for hair braiding is \$200. The fee for the initial inspection is \$15. If an additional inspection is necessary, the fee is \$25.

Sec. 11. 1. The Board must be notified of any change of ownership, name, services offered or location of an establishment for hair braiding. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the fees established pursuant to subsection 3 of section 10 of this act.

2. After a license has been issued for the operation of an establishment for hair braiding, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 12. 1. The license of an establishment for hair braiding expires 2 years after the date of issuance or renewal of the license.

2. If the owner of an establishment for hair braiding fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 13. Every holder of a license issued by the Board to operate an establishment for hair braiding shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

Sec. 14. Hair braiding may be practiced in an establishment for hair braiding by licensed hair braiders, hair designers or cosmetologists who are:

1. Employees of the owner of the establishment; or

2. Lessees of space from the owner of the establishment.

Sec. 15. An establishment for hair braiding must, at all times, be under the immediate supervision of a licensed hair braider, hair designer or cosmetologist.

Sec. 16. Food or beverages for immediate consumption may be sold in an establishment for hair braiding.

Sec. 17. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, and sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.

Sec. 18. NRS 644.0205 is hereby amended to read as follows:

644.0205 1. "Aesthetician" means any person who engages in the practices of:

(a) Beautifying, massaging, cleansing or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body; and

(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, tweezers or sugaring,

↳ but does not include the branches of cosmetology of a cosmetologist, hair designer, hair braider, electrologist or nail technologist.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 19. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, hair braider, demonstrator of cosmetics and nail technologist.

Sec. 20. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.
3. License establishments for hair braiding, cosmetological establishments and schools of cosmetology.
4. Report to the proper prosecuting officers all violations of this chapter coming within its knowledge.
5. Inspect schools of cosmetology, establishments for hair braiding and cosmetological establishments to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

**Sec. 21. NRS 644.110 is hereby amended to read as follows:**

644.110 The Board shall adopt reasonable regulations:

1. For carrying out the provisions of this chapter.
2. For conducting examinations of applicants for licenses.
3. For governing the recognition of, and the credits to be given to, the study of cosmetology under a licensed electrologist or in a school of cosmetology licensed pursuant to the laws of another state or territory of the United States or the District of Columbia.
4. For governing the conduct of schools of cosmetology. The regulations must include but need not be limited to, provisions:
  - (a) Prohibiting schools from requiring that students purchase beauty supplies for use in the course of study;
  - (b) Prohibiting schools from deducting earned hours of school credit or any other compensation earned by a student as a punishment for misbehavior of the student;
  - (c) Providing for lunch and coffee recesses for students during school hours; and
  - (d) Allowing a member or an authorized employee of the Board to review the records of a student's training and attendance.
5. Governing the courses of study and practical training required of persons for treating the skin of the human body.
6. For governing the conduct of cosmetological establishments.

**7. As the Board determines are necessary for governing the conduct of establishments for hair braiding.**

~~Section 1.~~ **Sec. 22. NRS 644.120 is hereby amended to read as follows:**

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases in the practice of hair braiding, in establishments for hair braiding, in the practice of a cosmetologist, in cosmetological establishments or schools of cosmetology, ~~for in the practice of a cosmetologist~~ ~~for in the practice of a~~ **in the practice of threading and in any facility in this State in which threading is conducted.**

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, establishment for hair braiding, school of cosmetology or practice of cosmetology.

**Sec. 23. NRS 644.130 is hereby amended to read as follows:**

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every nail technologist, electrologist, aesthetician, hair designer, hair braider, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all establishments for hair braiding, cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

**Sec. 24. NRS 644.190 is hereby amended to read as follows:**

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, an establishment for hair braiding, a school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in ~~subsection 4,~~ subsections 4 and 5, it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

**5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.**

**Sec. 25. NRS 644.193 is hereby amended to read as follows:**

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his or her education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, **hair braider**, aesthetician or nail technician for 1 year and submits written verification of his or her experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself or herself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than \$40 and not more than \$75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year after the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

~~Sec. 24~~ **Sec. 26. NRS 644.200 is hereby amended to read as follows:**

644.200 The Board shall admit to examination for a license as a cosmetologist, at any meeting of the Board held to conduct examinations, any person who has made application to the Board in proper form and paid the fee, and who before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to applicable state or federal requirements.

~~4-1~~ 5. Has had any one of the following:

(a) Training of at least 1,800 hours, extending over a school term of 10 months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of a cosmetologist for a period of 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

(d) Completion of at least 3,600 hours of service as a cosmetologist's apprentice in a licensed cosmetological establishment in which all of the occupations of cosmetology are practiced. The required hours must have been completed during the period of validity of the certificate of registration as a cosmetologist's apprentice issued to the person pursuant to NRS 644.217.

~~Sec 3-1~~ **Sec. 27.** NRS 644.203 is hereby amended to read as follows:

644.203 The Board shall admit to examination for a license as an electrologist any person who has made application to the Board in the proper form and paid the fee, and who before or on the date set for the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 12th grade in school or its equivalent.

~~4-1~~ 5. Has or has completed any one of the following:

(a) A minimum training of 500 hours under the immediate supervision of an approved electrologist in an approved school in which the practice is taught.

(b) Study of the practice for at least 1,000 hours extending over a period of 5 consecutive months, under an electrologist licensed pursuant to this chapter, in an approved program for electrologist's apprentices.

(c) A valid electrologist's license issued by a state whose licensing requirements are equal to or greater than those of this State.

(d) Either training or practice, or a combination of training and practice, in electrology outside this State for a period specified by regulations of the Board.

~~Sec 4-1~~ **Sec. 28.** NRS 644.204 is hereby amended to read as follows:

644.204 The Board shall admit to examination for a license as a hair designer, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

1. Is not less than 18 years of age.
2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

~~4.1~~ 5. Has had at least one of the following:

(a) Training of at least 1,200 hours, extending over a period of 7 consecutive months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of hair designing for at least 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

~~Sec. 5.1~~ **Sec. 29.** NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee and who, before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent.

~~4.1~~ 5. Has had any one of the following:

(a) Practical training of at least 600 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

~~Sec. 6.1~~ **Sec. 30.** NRS 644.206 is hereby amended to read as follows:

644.206 The Board shall admit to examination for a license as a demonstrator of cosmetics any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***

4. Has completed a course provided by the Board relating to sanitation; and

~~4.1~~ 5. Except as otherwise provided in NRS 622.090, has received a score of not less than 75 percent on the examination administered by the Board.

~~Sec. 7.1~~ **Sec. 31.** NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. *Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*

4. Has successfully completed the 10th grade in school or its equivalent; and

~~4.1~~ 5. Has received a minimum of 900 hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

**Sec. 32. NRS 644.220 is hereby amended to read as follows:**

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than \$75 and not more than \$200.

(b) For examination as an electrologist, not less than \$75 and not more than \$200.

(c) For examination as a hair designer, not less than \$75 and not more than \$200.

(d) ***For examination as a hair braider, \$110.***

~~(e)~~ (e) For examination as a nail technologist, not less than \$75 and not more than \$200.

~~(e)~~ (f) For examination as an aesthetician, not less than \$75 and not more than \$200.

~~(f)~~ (g) For examination as an instructor of aestheticians, hair designers, cosmetology or nail technology, not less than \$75 and not more than \$200.

~~The~~

2. ***Except as otherwise provided in this subsection, the*** fee for each reexamination is not less than \$75 and not more than \$200.

~~2.1~~ ***The fee for reexamination as a hair braider is \$110.***

3. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is \$75.

~~3.1~~ 4. Each applicant referred to in subsections 1 and ~~2~~ 3 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

**Sec. 33. NRS 644.260 is hereby amended to read as follows:**

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider***, nail technologist, demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his or her fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

**Sec. 34. NRS 644.300 is hereby amended to read as follows:**

644.300 Every licensed nail technologist, electrologist, aesthetician, hair designer, ***hair braider***, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his or her place of business, as designated in the records of the Board, notify the Secretary of the Board of the new place

of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

~~Sec. 8.~~ **Sec. 35.** NRS 644.310 is hereby amended to read as follows:

644.310 ~~Upon~~ **Except as otherwise provided in section 8 of this act,** upon application to the Board, accompanied by a fee of \$200, a person currently licensed in any branch of cosmetology under the laws of another state or territory of the United States or the District of Columbia may, without examination, unless the Board sees fit to require an examination, be granted a license to practice the occupation in which the applicant was previously licensed upon proof satisfactory to the Board that the applicant:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed a nationally recognized written examination in this State or in the state or territory or the District of Columbia in which he or she is licensed.
- ~~4.~~ 5. Is currently licensed in another state or territory or the District of Columbia.

**Sec. 36. NRS 644.320 is hereby amended to read as follows:**

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, **hair braider,** nail technologist, demonstrator of cosmetics and instructor expires:

- (a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.
- (b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses **, other than initial licenses as a hair braider,** issued for less than 1 1/2 years.

**3. Except as otherwise provided in this section, the fee for an initial license as a hair braider is \$70. The fee for an initial license as a hair braider issued by the Board for:**

- (a) At least a portion of 1 month but less than 6 months is \$17.50.**
- (b) Six months or more but less than 12 months is \$35.00**
- (c) Twelve months or more but less than 18 months is \$52.50.**

**Sec. 37. NRS 644.325 is hereby amended to read as follows:**

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

- (a) Made on a form prescribed and furnished by the Board;
- (b) Made on or before the date for renewal specified by the Board;
- (c) Accompanied by the fee for renewal; and
- (d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than \$50 and not more than \$100.

(b) **For hair braiders, \$70.**

~~(c)~~ (c) For instructors, not less than \$60 and not more than \$100.

~~(d)~~ (d) For cosmetological establishments, not less than \$100 and not more than \$200.

~~(e)~~ (e) **For establishments for hair braiding, \$70.**

(f) For schools of cosmetology, not less than \$500 and not more than \$800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for **an establishment for hair braiding,** a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, **hair braider,** aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, **hair braider,** aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

**Sec. 38. NRS 644.330 is hereby amended to read as follows:**

644.330 1. A nail technologist, electrologist, aesthetician, hair designer, **hair braider,** cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his or her license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any nail technologist, electrologist, aesthetician, hair designer, **hair braider,** cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his or her license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No nail technologist, electrologist, aesthetician, hair designer, **hair braider,** cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his or her license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

~~Sec. 39.~~ **Sec. 39. NRS 644.350 is hereby amended to read as follows:**

644.350 1. The license of every cosmetological establishment expires

~~—(a) If the last name of the owner begins with the letter "A" through the letter "M," on the date of birth of the owner in the next succeeding odd-numbered year.~~

~~—(b) If the last name of the owner begins with the letter "N" through the letter "Z," on the date of birth of the owner in the next succeeding even-numbered year.~~

~~—2. If a cosmetological establishment has more than one owner, the Board shall designate one of the owners whose last name will be used for the purpose of determining the date of expiration of the license of the cosmetological establishment.~~

~~—3.† 2 years after the date of issuance or renewal of the license.~~

2. If a cosmetological establishment fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

**Sec. 40. NRS 644.380 is hereby amended to read as follows:**

644.380 1. Any person desiring to conduct a school of cosmetology in which any one or any combination of the occupations of cosmetology are taught must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker. The forms must be accompanied by:

(a) A detailed floor plan of the proposed school;

(b) The name, address and number of the license of the manager or person in charge and of each instructor;

(c) Evidence of financial ability to provide the facilities and equipment required by regulations of the Board and to maintain the operation of the proposed school for 1 year;

(d) Proof that the proposed school will commence operation with an enrollment of not less than 25 bona fide students;

(e) The annual fee for a license; ~~and~~

(f) **A copy of the contract for the enrollment of a student in a program at the school of cosmetology; and**

**(g)** The name and address of the person designated to accept service of process.

2. Upon receipt by the Board of the application, the Board shall, before issuing a license, determine whether the proposed school:

(a) Is suitably located.

(b) Contains at least 5,000 square feet of floor space and adequate equipment.

(c) **Has a contract for the enrollment of a student in a program at the school of cosmetology that is approved by the Board.**

**(d)** Meets all requirements established by regulations of the Board.

3. The annual fee for a license for a school of cosmetology is not less than \$500 and not more than \$800.

4. If the ownership of the school changes or the school moves to a new location, the school may not be operated until a new license is issued by the Board.

5. After a license has been issued for the operation of a school of cosmetology, the licensee must obtain the approval of the Board before making any changes in the physical structure of the school.

**Sec. 41. NRS 644.430 is hereby amended to read as follows:**

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of an establishment for hair braiding, a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, hair braider, electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410, ~~+~~ **and section 13 of this act.**

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

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

**Sec. 42. NRS 644.472 is hereby amended to read as follows:**

644.472 1. Except as otherwise provided in subsection 2, it is unlawful for any animal to be on the premises of a licensed establishment for hair braiding or cosmetological establishment.

2. An aquarium may be maintained on the premises of a licensed establishment for hair braiding or cosmetological establishment.

~~Sec. 40.~~ Sec. 43. NRS 644.383 is hereby repealed.

Sec. 44. The provisions of this act apply to contracts entered into on or after July 1, 2011.

Sec. 45. Each school of cosmetology licensed before July 1, 2011, before entering into a contract for the enrollment of a student in a program at the school of cosmetology, shall obtain the Board's approval of the contract. Thereafter, any revisions to the approved contract must be approved in accordance with section 6 of this act.

Sec. 46. 1. The State Board of Cosmetology shall:

(a) On July 1, 2011, begin issuing licenses:

(1) To practice as a hair braider; and

(2) To operate an establishment for hair braiding.

(b) On or before July 1, 2011, adopt any regulations that the Board determines are necessary to enable the Board to begin issuing the licenses described in paragraph (a) on July 1, 2011.

2. As used in this section:

(a) "Establishment for hair braiding" has the meaning ascribed to it in section 3 of this act.

(b) "Hair braider" has the meaning ascribed to it in section 4 of this act.

(c) "Hair braiding" has the meaning ascribed to it in section 5 of this act.

Sec. 47. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, including, without limitation, the approval of contracts, as needed to carry out the provisions of this act; and

2. On July 1, 2011, for all other purposes.

#### TEXT OF REPEALED SECTION

#### 644.383 Surety bond.

1. The owner of each school of cosmetology shall post with the Board a surety bond executed by the applicant as principal and by a surety company as surety. If the license for the school was issued:

(a) On or before June 30, 2005, the bond must be in the amount of \$10,000; or

(b) On or after July 1, 2005, except as otherwise provided in subsections 6 and 7, the bond must be in the amount determined by the Board pursuant to subsections 2 to 5, inclusive.

2. The amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 is the total of the amounts of the bonds for all of the programs offered by the school, except that:

(a) The total amount determined pursuant to subsections 3, 4 and 5 must be rounded down to the nearest \$5,000; and

(b) The amount of the bond required for the school must not be less than \$10,000 or more than \$400,000.

3. Except as otherwise provided in subsection 4, the amount of the bond for a program at a school of cosmetology is equal to the cost to be paid by a student for the program multiplied by the number of students who will enroll in the program each year.

4. If the length of a program at a school of cosmetology is less than 1 year, the amount of the bond for that program is equal to the amount determined pursuant to subsection 3 divided by 52 and multiplied by the number of whole or partial weeks in the program.

5. Except as otherwise provided in subsection 2, the amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 must be reduced to 12 percent of the total of the amounts calculated pursuant to subsections 3 and 4 if the school participates in:

(a) Any program of student assistance pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et. seq.; or

(b) Any other program administered by the United States Department of Education through which students at the school receive loans.

6. If a school of cosmetology has been licensed for not less than 5 years, the Board shall set the amount of the bond required pursuant to paragraph (b) of subsection 1 for the school:

(a) In the amount of \$10,000, if the Board did not receive any valid complaints against the school during the immediately preceding 5 years;

(b) In an amount not less than \$10,000 and not more than the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that each such complaint was a complaint of a minor violation of the provisions of this chapter or of any regulations adopted pursuant to this chapter; and

(c) In the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that any such complaint was a complaint of a major violation of the provisions of this chapter or any regulations adopted pursuant thereto.

7. The bond required for a school of cosmetology must be in the amount of \$10,000 if the school:

(a) Is initially licensed on or before June 30, 2005;

(b) Has been continuously licensed since June 30, 2005; and

(c) Is relocated and obtains a license for the new location on or after July 1, 2005.

8. The bond must be in the form approved by the Board and must be conditioned upon compliance with the provisions of this chapter and upon faithful compliance with the terms and conditions of any contracts, verbal or written, made by the school to furnish instruction to any person. The bond must be to the State of Nevada in favor of every person who pays or deposits money with the school as payment for instruction. A bond continues in effect until notice of termination is given by registered or certified mail to the Board, and every bond must set forth this fact.

9. A person claiming to be injured or damaged by an act of the school may maintain an action in any court of competent jurisdiction on the bond against the school and the surety named therein, or either of them, for refund of tuition paid. Any judgment against the principal or surety in any such action must include the costs thereof and those incident to the bringing of the action, including a reasonable attorney's fee. The aggregate liability of the surety to all such persons may not exceed the sum of the bond.

10. The Board shall adopt regulations defining the terms "minor violation" and "major violation" for the purposes of subsection 6.

Senator Schneider moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 193.

Motion carried.

Bill ordered transmitted to the Assembly.

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 13, 23, 56, 76, 110, 113, 115, 130, 135, 141, 143, 145, 146, 182, 192, 200, 213, 233.

#### GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Denise Geissinger, Sandy Small, Billie McMenemy, Dee John and Rick Kuhlmeier.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Emily Weaver and the following students from the Wallin Elementary School: Mary Johnson (Abbie), Aislinn Kertesz, Jessabel Rodriguez, Kourtney Vincent, Tanner Billiu, Maya Fairchild, Emily Lookhoff, Garrett Maloney, Jadori Patel, Jordyn Peters, Madison Scott, Kelly Lane Smith, Cole Thurman, Preston Valdez, Carlos Verboonen, Skyler Watson, Clayton Watson, Dylan Avillanoza, Anthony Calderon, Christopher Custer, Mia Cutone, Justin Duross, Joshua Gordon, Camille Jefferies, Armaandeeep Singh, Chad Wolin, Jacob Woolstenhulme, Kayla Hurler, Thor Haynes, Alexa Bailey, Noel Chang, Kelsie Dayrit, Zachary Fears, Vance Ferron, Lacey Foster, Emma Nicole Georgiev, Mark Grismanauskas, Cameron Guibara, Garret Hepworth, Connor Preston and Melody Rathel.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Patrick McNaught.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Morgan Lorenz and David Lorenz.

Senator Horsford moved that the Senate adjourn until Thursday, May 26, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 12:22 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

Attest: DAVID A. BYERMAN  
*Secretary of the Senate*