

**THE ONE HUNDRED AND EIGHTH DAY**

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CARSON CITY (Wednesday), May 22, 2013

Assembly called to order at 12:05 p.m.

Madam Speaker presiding.

Roll called.

All present except Assemblywoman Pierce, who was excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

The time is ticking by pretty fast as we are seeing the deadlines for this session of the Legislature. It is so easy to become confused and then live at cross-purposes to our central aims, and because of that, we are at cross-purposes with each other. Take us by the hand and help us to see things from Your viewpoint that we may see them as they really are. We come to choices and decisions with a prayer on our lips for our wisdom fails us. Give to these, Your servants, Your wisdom. We ask this in Your Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Horne moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

## MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Kirkpatrick, Aizley, Elliot Anderson, Paul Anderson, Benitez-Thompson, Bobzien, Bustamante Adams, Carlton, Carrillo, Cohen, Daly, Diaz, Dondero Loop, Duncan, Eisen, Ellison, Fiore, Flores, Frierson, Grady, Hambrick, Hansen, Hardy, Healey, Hickey, Hogan, Horne, Kirner, Livermore, Martin, Munford, Neal, Ohrenschall, Oscarson, Pierce, Spiegel, Sprinkle, Stewart, Swank, Thompson, Wheeler and Woodbury; Senators Denis, Atkinson, Brower, Cegavske, Ford, Goicoechea, Gustavson, Hammond, Hardy, Hutchison, Jones, Kieckhefer, Kihuen, Manendo, Parks, Roberson, Segerblom, Settelmeyer, Smith, Spearman and Woodhouse:

Assembly Concurrent Resolution No. 8—Memorializing John J. McDonald.

WHEREAS, The members of the 77th Session of the Nevada Legislature note with profound sorrow the loss of John McDonald, a man whose legacy continues to enrich his community, on February 6, 2013; and

WHEREAS, John Joseph McDonald was born in Butte, Montana, on June 21, 1925, to Frank and Margie McDonald; and

WHEREAS, After serving in World War II, John married his wife Doris in 1952, and the young family moved to Nevada in 1960 to put down its roots in Las Vegas; and

WHEREAS, John worked in various casinos as a card dealer and eventually moved up the ranks to become a casino manager; and

WHEREAS, After his retirement in 1990, this lifelong football fan devoted his time and energy to youth sports, particularly his mission to ensure that local youth, regardless of background, were afforded recreational opportunities they may not otherwise have had; and

WHEREAS, Mr. McDonald enthusiastically took on the task of coaching neighborhood children who were cut from the Pop Warner football team, and as an added bonus to being taught focus, teamwork and leadership, those children would make the team the following year; and

WHEREAS, In the 1990s, John began working with neighbors near Buffalo Drive to advocate for the transformation of vacant land in the area to a youth football-designated complex, and his vision was realized in 2001 with the opening of All American Park, featuring six fields for youth football; and

WHEREAS, In January of 2012, this community leader's efforts were recognized with the naming of the John J. McDonald Football Complex at All American Park; and

WHEREAS, A loyal supporter of the sport, John traveled to see many University of Notre Dame football games, and his last family vacation was a trip to see Notre Dame win against the University of Southern California; and

WHEREAS, In addition to his sports-related hobbies and endeavors, John was active in politics and generously devoted time and energy to many campaigns; and

WHEREAS, Because he extended warmth and friendship to everyone equally, John was fondly known as "Mr. Mac," "Dad" or "Pops," and his positive outlook and gregarious smile will be greatly missed; and

WHEREAS, John was preceded in death by his beloved wife Doris Adair McDonald and sons-in-law Terry Pinter and Tommy Lavin, and he leaves behind daughters Jacquelyn McDonald Lavin and Kerry Lee McDonald, son Michael J. McDonald and his fiancée Jollette, grandchildren TJ and Brooke Lavin and great-grandchildren Justice and Aspen Lavin; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 77th Session of the Nevada Legislature hereby extend their deepest condolences to John's beloved family and countless friends; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to John's children Jacquelyn, Kerry Lee and Michael.

Assemblyman Munford moved the adoption of the resolution.

Remarks by Assemblymen Munford, Hickey, and Madam Speaker.

ASSEMBLYMAN MUNFORD:

I would like to say a few words about John J. McDonald. Like a lot of people who live in Nevada, John was from elsewhere, but when he moved here after being discharged from the Navy, he came to stay and made his home in Las Vegas. He worked in the casino industry, raised a wonderful family, and was involved with youth and later, politics.

Many of you may not know this, but John was a constituent of mine. Often, when I would walk my district, I would stop at John's house. As I got to know him very well, he would invite me in for refreshments, and we would sit down and talk about things of concern about our community.

He was a dedicated family man and knew that without making effort, nothing gets done. Living in a large city can be challenging, particularly for youngsters, as he would often say. John worked with at-risk young men and taught them the fundamentals of sports, especially football—that was his favorite sport. He used sports to give confidence and steer them in the right and positive direction. John was even known to sponsor Pop Warner football teams and gave kids individualized coaching.

John expected honesty from his own children, and this extended to his players. He considered integrity to be an important part of a person's character; if a person did something wrong, they had to own up to it.

John lived by his values. He enjoyed time with his family, friends, and his players. Conversation was an important way for him to stay involved with people. I have to say, I spent many hours conversing with John.

John J. McDonald was an inspiration to many people. I am honored to have called him my friend. Driving by John J. McDonald's house, I had the opportunity to speak with his son and his son's fiancé on many occasions. I also have the opportunity to drive by a football complex that is named in his honor.

He was committed to his family, to his community, and to the youth. He was a man with integrity. He was an inspiration to me, and I can sincerely say, "Mr. Mac, we miss you very much."

ASSEMBLYMAN HICKEY:

I am pleased today to welcome our Governor back to this Chamber. He is here along with executive members of the Republican party—if they will please stand—to honor Mike McDonald's father John today. Please welcome them.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I am just going to take a few personal moments here. "Mr. Mac" is what we called him as kids. We all went to Western High School and hung out on Vegas Drive and Decatur in Las Vegas when it was way out—back then things did not go very far. There was never—and Mr. Horne is from Western as well—one day where he turned away a kid. There was never one day that he did not stop to think about somebody besides himself. I am sure you guys probably know I probably was not a quiet, shy child myself, but he always encouraged us to be who we are and to do whatever we could do and do the best at what we wanted to do. Whether it was sweeping the streets or going as far as you want to the top. I can tell you from my perspective—being a kid and growing up over there—he was great. He spent a lot of time just thinking about others. We need to stop every once in a while and remember those folks who made Nevada great, who touched so many lives for the long term, because if it was not for folks like that, I would not be here today. I would like to thank his family and personal friends for allowing us to do this and make sure that we, as Nevadans, do not forget what makes our state so great.

Resolution adopted.

REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 18, 90, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERESA BENITEZ-THOMPSON, *Chair*

*Madam Speaker:*

Your Committee on Judiciary, to which were referred Senate Bills Nos. 131, 278, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JASON FRIERSON, *Chair*

*Madam Speaker:*

Your Committee on Transportation, to which were referred Senate Bills Nos. 244, 313, 428, 429, 456, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RICHARD CARRILLO, *Chair*

*Madam Speaker:*

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 447, 454, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2013

*To the Honorable the Assembly:*

It is my pleasure to inform your esteemed body that the Senate on this day passed Assembly Bills Nos. 21, 60, 73, 129, 165, 198, 263, 305, 321, 326, 327, 333, 334, 337, 341; Senate Bills Nos. 239, 330, 446.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bills Nos. 83, 84, 142, 164, 416, 463.

Also, it is my pleasure to inform your esteemed body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 8, Amendment No. 634; Assembly Bill No. 9, Amendment No. 601; Assembly Bill No. 10, Amendment No. 628; Assembly Bill No. 64, Amendment No. 636; Assembly Bill No. 84, Amendment No. 626; Assembly Bill No. 86, Amendment No. 650; Assembly Bill No. 87, Amendment No. 613; Assembly Bill No. 97, Amendment No. 625; Assembly Bill No. 99, Amendment No. 614; Assembly Bill No. 131, Amendment No. 600; Assembly Bill No. 156, Amendment No. 638; Assembly Bill No. 172, Amendment No. 615; Assembly Bill No. 181, Amendment No. 651; Assembly Bill No. 200, Amendment No. 633; Assembly Bill No. 233, Amendment No. 605; Assembly Bill No. 262, Amendment No. 639; Assembly Bill No. 306, Amendment No. 652; Assembly Bill No. 339, Amendment No. 653; and respectfully requests your honorable body to concur in said amendment.

Also, it is my pleasure to inform your esteemed body that the Senate on this day concurred in the Assembly Amendments Nos. 608, 672 to Senate Bill No. 125.

Also, it is my pleasure to inform your esteemed body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 593 to Senate Bill No. 9.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bills Nos. 18, 90, 131, 244, 278, 313, 428, 429, and 456, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Horne moved that Assembly Bills Nos. 447 and 454, just reported out of committee, be placed at the top of the General File.

Motion carried.

Assemblyman Horne moved that Assembly Bills Nos. 67, 287, 336; Senate Bills Nos. 76, 94, 99, 162, 179, 208, 220, 224, 236, 246, 262, 315, and 321, be taken from their positions on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Horne moved that Senate Bills Nos. 72, 107, 276, 301, 319, and 373 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:35 p.m.

#### ASSEMBLY IN SESSION

At 12:44 p.m.

Madam Speaker presiding.

Quorum present.

#### INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 500—AN ACT relating to economic development; enacting the Nevada New Markets Jobs Act which provides for tax credits for certain business entities; authorizing the Executive Director of the Office of Economic Development to adopt regulations; and providing other matters properly relating thereto.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 501—AN ACT relating to the Nevada System of Higher Education; authorizing certain capital projects at the campuses of the University of Nevada in Las Vegas and Reno; authorizing the issuance of general obligations of the State to pay the cost of the projects; pledging certain revenues as additional security for those obligations; and providing other matters properly relating thereto.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 83.

Assemblyman Daly moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 84.

Assemblywoman Bustamante Adams moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 142.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 164.

Assemblyman Elliot Anderson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 239.

Assemblyman Ohrenschall moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 330.

Assemblywoman Bustamante Adams moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 416.

Assemblyman Frierson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 446.

Assemblyman Elliot Anderson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 463.

Assemblyman Frierson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

## SECOND READING AND AMENDMENT

Senate Bill No. 18.

Bill read second time.

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

Amendment No. 716.

AN ACT relating to the military; revising and updating certain provisions governing military justice; revising and updating certain other provisions governing the Office of the Military, Nevada National Guard, Nevada National Guard Reserve and volunteer military organizations licensed by the Governor; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law contains the Nevada Code of Military Justice, which provides a system of adjudicating guilt and punishing offenders within the Nevada National Guard. (NRS 412.196-412.584) **Sections 8, 65 and 66** of this bill specify personal and subject matter jurisdiction under the Code. Existing law allows commanding officers to impose certain types of nonjudicial punishment upon servicemen and servicewomen under their command. (NRS 412.286-412.302) **Sections 10-17, 67-70, 107 and 110** of this bill modify provisions governing nonjudicial punishment.

Existing law provides for courts-martial to adjudicate certain offenses under the Code. (NRS 412.304-412.448) **Sections 18-32, 72-97 and 100-103** of this bill revise provisions governing courts-martial. **Sections 30 and 31** provide that certain persons found incompetent to stand trial by court-martial or not guilty by reason of lack of mental responsibility in court-martial proceedings are committed to the ~~custody~~ **care** of ~~the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services.~~ **a suitable facility.** **Section 97** gives general courts-martial the authority to impose a punishment of confinement for up to 10 years. Convicted servicemen and servicewomen serve their confinement in civil jails, detention facilities, penitentiaries or certain prisons. (NRS 412.276, 412.414)

Existing law specifies military offenses triable by courts-martial. (NRS 412.452-412.562) **Sections 33-40** of this bill add to this list of offenses acting as a spy, espionage, possession of controlled substances, sexual assault, stalking, larceny, wrongful appropriation, extortion and assault.

**Section 41** of this bill specifies who may administer oaths for the purposes of military administration, including military justice. **Sections 42 and 43** of this bill specify how the Code is to be construed.

Existing law establishes the Nevada National Guard as an organized body of enlisted personnel and commissioned officers. (NRS 412.026) **Section 44** of this bill establishes the Nevada Enlisted Association of the National Guard of the United States, a group of current and retired enlisted personnel of the Nevada National Guard.

**Section 53** of this bill conditions a program promoting rifle practice on the availability of funds from the State or Federal Government. (NRS 412.088)

Existing law provides that the Nevada National Guard cannot discriminate on the basis of race, creed, color, sex or national origin. (NRS 412.116) **Section 54** of this bill prohibits discrimination on the basis of gender or sexual orientation as well, while deleting language specifically prohibiting discrimination based on sex.

**Section 57** of this bill provides that members of the Nevada National Guard deployed to perform an emergency are to be compensated according to their respective military grade and pay status instead of receiving compensation equal to that received by the main labor force in the service of the State or Federal Government as they do under existing law. (NRS 412.138)

**Section 106** of this bill modifies the procedure for making a complaint against a commanding officer. (NRS 412.568) **Section 108** of this bill exempts persons subject to the Code from liability for acts or omissions performed as part of their duties under the Code. **Section 110** of this bill repeals allowances provided to servicemen and servicewomen of the Nevada National Guard for uniforms and equipment.

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

**Section 1.** Chapter 412 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 44, inclusive, of this act.

**Sec. 2.** *“Nonjudicial punishment” means punishment that is imposed:*

- 1. Pursuant to NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act;*
- 2. Against an accused, through the chain of command, by the accused’s commanding officer or other officer in charge; and*
- 3. Without the need to convene a court-martial.*

**Sec. 3.** *“Principal assistant” means a commissioned officer of the state military forces serving immediately subordinate to the convening authority.*

**Sec. 4.** *“Restraint-of-freedom punishments” means restriction and arrest in quarters.*

**Sec. 5.** *“Senior force judge advocate” means the senior judge advocate of the commanding officer of the same force of the state military forces as the accused, and who is that commanding officer’s chief legal advisor.*



**Sec. 6.** *“State military forces” means the members of the Nevada National Guard, reservists of the Nevada National Guard, and volunteer military organizations licensed by the Governor pursuant to NRS 412.126 to organize, drill and bear arms as volunteer military companies or volunteer military organizations.*

**Sec. 7. 1.** *The principal assistant shall assume command in the event of the commanding officer’s death, prolonged absence or disability.*

**2.** *In the case of the Nevada Air National Guard, the principal assistant may include an officer who lacks an aeronautical rating, as defined in Air Force Instruction 11-402 § 2.2, as it may be amended or replaced, and is serving in a position immediately subordinate to the convening authority.*

**3.** *Any delegation of authority to a principal assistant must be in writing, unless exigencies prevent such written delegation. If exigencies prevent written delegation, verbal authorization is sufficient and must be reduced to writing as soon as possible thereafter.*

**Sec. 8. 1.** *The following persons are subject to jurisdiction under this Code:*

*(a) Any person described in subsection 1 of NRS 412.254 or who is a member of the state military forces; and*

*(b) Any person who is in the custody of the state military forces before trial or who is serving a sentence imposed by a court-martial.*

**2.** *Any person described in subsection 1 is subject to this Code until the person’s active service has been terminated in accordance with the law or regulations of the state military forces and the National Guard Bureau and the regulations applicable to that person’s service.*

**Sec. 9.** *No member of the state military forces may be placed in confinement in immediate association with:*

**1.** *An enemy prisoner; or*

**2.** *A person who is a citizen of a country other than the United States and who is not a member of the Armed Forces of the United States.*

**Sec. 10. 1.** *Each commanding officer shall maintain good order and discipline in his or her command. If a commanding officer determines that he or she can maintain good order and discipline through effective leadership, including, without limitation, administrative and corrective measures, he or she must do so. If a commanding officer determines that he or she cannot maintain good order and discipline through effective leadership, including, without limitation, administrative and corrective measures, he or she may pursue punitive measures.*

**2.** *In determining the appropriate method of punishment, a commanding officer must consider, without limitation:*

*(a) The nature of the offense;*

*(b) The nature of the punishment;*

- (c) *The record of the offending serviceman or servicewoman;*
- (d) *The need to maintain good order and discipline; and*
- (e) *The likely effect of the punitive measures on the record of the offending serviceman or servicewoman.*

3. *Each commanding officer shall, insofar as is practicable, take action to ensure that:*

- (a) *Military justice is exercised promptly and fairly; and*
- (b) *Each matter of a disciplinary or punitive nature is resolved:*
  - (1) *At the lowest appropriate level; and*
  - (2) *Using the least severe punishment appropriate to the offense.*

Sec. 11. 1. *This section sets forth the law, policies and procedures for nonjudicial punishment in the state military forces. Unless modified by this Code, the procedures contained in Chapter 3 of Army Regulation 27-10 and Air Force Instruction 51-202, as they may be amended or replaced, apply to nonjudicial punishment in this Code.*

2. *Each commanding officer shall use nonjudicial punishment as an essential and prompt means of maintaining good order and discipline, and to promote positive behavior and changes in servicemen and servicewomen without the stigma of a court-martial conviction.*

3. *No superior may:*

- (a) *Direct that a subordinate authority impose nonjudicial punishment in a particular case; or*
- (b) *Issue regulations or guidelines which suggest to subordinate authorities that certain categories of minor offenses be disposed of by nonjudicial punishment instead of by court-martial or disposed of by administrative corrective measures, or that predetermined types or amounts of punishment be imposed for certain classifications of offenses that the subordinate authority considers appropriate for disposition by nonjudicial punishment.*

4. *Nonjudicial punishment may be imposed for a minor offense. Whether an offense is minor must be determined by, without limitation:*

- (a) *The nature of the offense and the circumstances surrounding the commission of the offense;*
- (b) *The age, rank, duty assignment, record and experience of the offender; and*
- (c) *The maximum possible sentence that could be imposed for the offense if tried by general court-martial.*

5. *The decision as to whether an offense is minor is a matter of discretion for the commanding officer imposing nonjudicial punishment. The imposition and enforcement of nonjudicial punishment pursuant to NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act is not a bar to a trial by court-martial or other legal proceeding for a*

*serious crime or offense growing out of the same act or omission and not properly punishable pursuant to NRS 412.286 to 412.302, inclusive, and sections 10 to 17, inclusive, of this act, but the fact that a nonjudicial punishment has been enforced pursuant thereto may be shown by the accused at trial and when so shown must be considered in determining the severity of punishment to be adjudged in the event of a finding of guilty.*

*Sec. 12. Failure to comply with any procedural provision of this Code does not invalidate a punishment imposed pursuant to the Code, unless the error materially prejudiced a substantial right of the servicemen or servicewomen on whom the punishment was imposed.*

*Sec. 13. 1. Commanding officers have authority to impose nonjudicial punishment upon military personnel under their command. The authority of a commanding officer to impose nonjudicial punishment for certain types of offenses or certain categories of persons, or to impose certain types of punishment in specific cases, may be limited or withheld by a superior officer.*

*2. Only the Governor and general officers in command may delegate their authority under subsection 1 to a principal assistant. This limitation on delegation of authority does not remove the authority of other commanding officers authorized to act under this Code, but such other commanding officers may not delegate that authority. A commanding officer superior to the commanding officer having authority to impose nonjudicial punishment may withhold that authority.*

*3. A commanding officer at any echelon may withhold from any subordinate commanding officer all or part of the authority prescribed in subsection 1, including, without limitation, the authority to impose nonjudicial punishment for specific types of offenses that the subordinate would otherwise impose. When authority is withheld, such action should be explained in a clearly defined writing or directive. The original of the writing or directive must be filed in the office of the applicable judge advocate who serves the commanding officer whose authority has been withheld. Any such withholding remains in effect when a new commanding officer is appointed or assumes command, until and unless expressly revoked by the superior commanding officer. Any such action should be addressed to the position held by the commanding officer whose authority has been withheld, not to the commanding officer by name.*

*Sec. 14. An accused facing nonjudicial punishment has the right to demand a trial by court-martial only if the commanding officer who initiated the proceeding for nonjudicial punishment elects to impose restraint-of-freedom punishments. If, before an offer of nonjudicial punishment is made, the commanding officer elects not to impose restraint-of-freedom punishments, the accused has no right to demand a trial by*

*court-martial. If the commanding officer does not advise the accused serviceman or servicewoman of his or her right to reject the nonjudicial punishment and demand a trial by court-martial on initiation of the nonjudicial punishment action, the commanding officer thereby waives the right to retain the restraint-of-freedom punishments.*

*Sec. 15. 1. A commanding officer, after preliminary inquiry, may use a summarized proceeding if it is determined that punishment will not include restraint-of-freedom punishments.*

*2. A Summarized Record of Proceedings, under Article 15, UCMJ, as contained in Army Regulation 27-10, or AF Form 3070, as they may be amended or replaced, must be used to record the summarized nonjudicial punishment proceedings. However, the notification of the right to demand a trial by court-martial must be stricken from the form.*

*3. If a commanding officer who intends to impose nonjudicial punishment determines that a summarized proceeding is appropriate, the accused must be notified in writing of:*

*(a) The intent of the commanding officer to initiate nonjudicial punishment;*

*(b) The intent of the commanding officer to use summarized proceedings;*

*(c) The lack of a right on the part of the accused to demand a trial by court-martial;*

*(d) The maximum punishments allowable pursuant to the summarized proceeding;*

*(e) The right of the accused to remain silent;*

*(f) Each offense that the accused has allegedly committed with reference to the sections of the law allegedly violated;*

*(g) The right of the accused to confront witnesses, examine the evidence and submit matters in defense, extenuation and mitigation; and*

*(h) The right of the accused to appeal ~~it~~ within the period set forth in subsection 4 of NRS 412.296.*

*4. If a commanding officer determines that a summarized proceeding is appropriate, the accused does not have the right to consult with counsel before the hearing and the accused does not have the right to counsel or a spokesperson during the hearing.*

*5. Consistent with the regulations applicable to the accused's service, if a hearing is scheduled, notification of the date and time of the hearing may be made orally or in writing. The hearing must be scheduled not earlier than 24 hours and not later than 60 days after the accused receives notification pursuant to subsection 3 of the intent of the commanding officer to impose nonjudicial punishment.*

*Sec. 16. 1. A commanding officer who, after preliminary inquiry, determines that the punishment options will include restraint-of-freedom punishments shall use a formal proceeding.*

*2. If the commanding officer determines that a formal proceeding is appropriate, the accused must be notified in writing of:*

*(a) The intent of the commanding officer to initiate nonjudicial punishment;*

*(b) The intent of the commanding officer to use a formal proceeding;*

*(c) The maximum punishments allowable under the formal proceeding;*

*(d) The right of the accused to remain silent;*

*(e) Each offense that the accused has allegedly committed with reference to sections of the law that are alleged to have been violated;*

*(f) The right of the accused to confront witnesses, examine the evidence and submit matters in defense, extenuation and mitigation;*

*(g) The right of the accused to consult with a judge advocate and the location of such counsel;*

*(h) The right of the accused to demand a trial by court-martial at any time before the imposition of the nonjudicial punishment; and*

*(i) The right of the accused to appeal.*

*3. If the commanding officer determines that a formal proceeding is appropriate, the accused must be given a reasonable time to consult with counsel, to gather matters in defense, extenuation and mitigation and to decide whether to accept the nonjudicial punishment or demand a trial by court-martial. This decision period must be at least 48 hours, depending on the availability of counsel, but such period may be extended at the request of the accused.*

*4. The commanding officer is not bound by the formal rules of evidence before courts-martial and may consider any matter the commanding officer reasonably believes is relevant to the offense.*

*Sec. 17. 1. A punishment may be announced at the next formation of the unit of the accused after the punishment is imposed or, if appealed, after the decision on the appeal. The announcement may also be posted on a bulletin board of the unit or published in a newsletter or web publication of the unit.*

*2. The announcement of the results of punishments may be used to mitigate perceptions of unfairness of punishment and to serve as a deterrent to similar misconduct by other servicemen and servicewomen. The announcement of punishments must not be undertaken to invoke public embarrassment or scorn of the serviceman or servicewoman so punished. Accordingly, the practice of announcing punishments must be undertaken in a consistent manner to avoid the appearance of favoritism or vindictiveness.*

3. *In deciding whether to announce the punishment of servicemen and servicewomen in the grade of E-5 or above, the commanding officer shall consider the following factors:*

- (a) The nature of the offense;*
- (b) The military record and duty position of the serviceman or servicewoman being punished;*
- (c) The deterrent effect of announcing the punishment;*
- (d) The impact on the morale or mission of the applicable unit;*
- (e) The impact on the victim, if any, of the serviceman's or servicewoman's offense; and*
- (f) The impact on the ability of the serviceman or servicewoman to lead.*

**Sec. 18. 1.** *A military judge must be:*

*(a) An active or retired commissioned officer of an organized state military force ~~for~~ or in federal service;*

*(b) One of the following:*

- (1) A member in good standing of the State Bar of Nevada;*
- (2) A member of the bar of a federal court for at least 5 years; or*
- (3) A person who is licensed to practice law in a state other than the State of Nevada, certified by the Adjutant General of the state in which the military judge is licensed, and a member in good standing therein, and who has received permission from the State Bar of Nevada to sit as a military judge; and*

*(c) Certified as qualified for duty as a military judge by the senior force judge advocate of the same military force of which the accused is a member.*

2. *If a military judge is not a member of the State Bar of Nevada, the military judge shall be deemed admitted pro hac vice, subject to filing with the senior force judge advocate of the same military force of which the accused is a member a certificate setting forth that the other qualifications provided in subsection 1 have been met.*

**Sec. 19.** *Each component or branch of the state military forces has court-martial jurisdiction over all servicemen and servicewomen of that particular component or branch who are subject to this Code. Additionally, the Nevada Army National Guard and Nevada Air National Guard have court-martial jurisdiction over all servicemen and servicewomen subject to this Code.*

**Sec. 20. 1.** *A person may not be tried or adjudged to punishment under this Code while incompetent.*

2. *For the purposes of this section, a person is incompetent when presently suffering from a mental disease or defect rendering the person unable to understand the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case.*

**Sec. 21. 1.** *It is an affirmative defense in trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality of the wrongfulness of his or her acts and, thus, lacked mental responsibility for those acts. Mental disease or defect does not otherwise constitute a defense.*

*2. The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.*

*3. Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused:*

*(a) Guilty;*

*(b) Not guilty; or*

*(c) Not guilty by reason of lack of mental responsibility.*

*↳ Notwithstanding the provisions of NRS 412.396, the accused may only be found not guilty by reason of lack of mental responsibility pursuant to paragraph (c) if a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.*

*4. The provisions of this subsection and subsection 3 do not apply to a court-martial composed only of a military judge. In the case of a court-martial composed only of a military judge or a summary court-martial officer, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge or summary court-martial officer shall find the accused:*

*(a) Guilty;*

*(b) Not guilty; or*

*(c) Not guilty only by lack of mental responsibility.*

*↳ Notwithstanding the provisions of NRS 412.396, the accused may be found not guilty only by reason of lack of mental responsibility pursuant to paragraph (c) only if the military judge or summary court-martial officer determines that the defense of lack of mental responsibility has been established.*

**Sec. 22. 1.** *On application by an accused who is under a sentence of confinement that has not been ordered executed, the convening authority or, if the accused is no longer under that person's jurisdiction, the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned may, in the sole discretion of that person, defer service of the sentence of confinement. The deferment must terminate when the sentence is ordered executed. The person who granted the deferment may rescind the deferment at any time. If the accused is no*

*longer under the jurisdiction of the person who granted the deferment, the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned may rescind the deferment at any time.*

*2. In any case in which a court-martial sentences an accused referred to in subsection 1 to confinement, the convening authority may defer the service of the sentence of confinement without the consent of the accused until after the accused has been permanently released to the state military forces by a state, the United States or a foreign country.*

*3. Subsection 1 applies to a person subject to this Code who:*

*(a) While in the custody of a state, the United States or a foreign country is temporarily returned by that state, the United States or a foreign country to the state military forces for trial by court-martial; and*

*(b) After the court-martial described in paragraph (a), is returned to that state, the United States or a foreign country under the authority of a mutual agreement or treaty, as the case may be.*

*4. In any case in which a court-martial sentences an accused to confinement and the sentence of confinement has been ordered executed pending review, the Adjutant General may defer further service of the sentence of confinement while that review is pending.*

*5. As used in this section, the term "state" includes any state, the District of Columbia and any commonwealth, territory or possession of the United States.*

*Sec. 23. 1. This section applies to any sentence that includes:*

*(a) Confinement for more than 6 months; or*

*(b) Confinement for 6 months or less and a dishonorable discharge, bad-conduct discharge or dismissal.*

*2. A sentence described in subsection 1 must result in the forfeiture of pay, or of pay and allowances, due the sentenced serviceman or servicewoman during any period of confinement or parole. The forfeiture required pursuant to this subsection must take effect on the date determined under this Code and may be deferred as provided by law. In the case of a general court-martial, all pay and allowances due the sentenced serviceman or servicewoman during such period must be forfeited. In the case of a special court-martial, two-thirds of all pay due the sentenced serviceman or servicewoman during such period must be forfeited.*

*3. In a case involving an accused who has dependents, the convening authority or other person acting under this Code may waive any or all of the forfeitures of pay and allowances required by subsection 2 for a period not to exceed 6 months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited must be paid, as the*



*convening authority or other person taking action directs, to the dependents of the accused.*

*4. If the sentence of a serviceman or servicewoman who forfeits pay and allowances under subsection 2 is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection 1, the serviceman or servicewoman must be paid the pay and allowances which the serviceman or servicewoman would otherwise have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.*

*Sec. 24. 1. In each case subject to appellate review pursuant to NRS 412.422, the accused may file with the convening authority a statement expressly withdrawing the right of the accused to such appeal. Such a withdrawal must be signed by both the accused and defense counsel and must be filed in accordance with appellate procedures as provided by law.*

*2. The accused may withdraw an appeal at any time in accordance with appellate procedures as provided by law.*

*Sec. 25. 1. In a trial by court-martial in which a punitive discharge may be adjudged, the State may not appeal a finding of not guilty with respect to the charge or specification by the members of the court-martial, or by a judge in a bench trial, provided that the finding is not made in reconsideration of a sentence or a finding of guilty. The State may appeal the following:*

*(a) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification;*

*(b) An order or ruling which excludes evidence that is substantial proof of a fact material to the proceeding;*

*(c) An order or ruling which directs the disclosure of classified information;*

*(d) An order or ruling which imposes sanctions for nondisclosure of classified information;*

*(e) A refusal of the military judge to issue a protective order sought by the State to prevent the disclosure of classified information; and*

*(f) A refusal by the military judge to enforce an order described in paragraph (e) that has been previously issued by appropriate authority.*

*2. An appeal of an order or ruling by the State may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours after the order or ruling. Such notice must include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one which excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.*

3. *The State must diligently prosecute an appeal under this section as provided by law.*

4. *An appeal under this section must be forwarded to the court prescribed in this Code. In ruling on an appeal under this section, the court may act only with respect to matters of law.*

5. *Any period of delay resulting from an appeal under this section must be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.*

Sec. 26. 1. *The senior force judge advocate or his or her designee shall review each general and special court-martial case in which there has been a finding of guilty. The senior force judge advocate or designee may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge or counsel or has otherwise acted on behalf of the prosecution or defense. The review of the senior force judge advocate or designee must be in writing and must contain the following:*

(a) *Conclusions as to whether:*

(1) *The court has jurisdiction over the accused and the offense;*

(2) *The charge and specification stated an offense; and*

(3) *The sentence was within the limits prescribed by law.*

(b) *A response to each allegation of error made in writing by the accused.*

(c) *If the case is sent for action pursuant to subsection 2, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.*

2. *The record of trial and related documents in each case reviewed under subsection 1 must be sent for action to the Adjutant General if:*

(a) *The senior force judge advocate who reviewed the case recommends corrective action;*

(b) *The sentence approved includes dismissal, a bad-conduct discharge, dishonorable discharge or confinement for more than 6 months; or*

(c) *Such action is otherwise required by regulations of the Adjutant General.*

3. *The Adjutant General may:*

(a) *Disapprove or approve the findings or sentence, in whole or in part;*

(b) *Remit, commute or suspend the sentence in whole or in part;*

(c) *Except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings or on the sentence, or both; or*

(d) *Dismiss the charges.*

4. *If a rehearing is ordered but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.*

5. *If the opinion of the senior force judge advocate or designee, in the review under subsection 1, is that corrective action is required as a matter of law and if the Adjutant General does not take action that is at least as favorable to the accused as that recommended by the senior force judge advocate or designee, the record of trial and action thereon must be sent to the Governor for review and action as deemed appropriate.*

6. *The senior force judge advocate or his or her designee may review any case in which there has been a finding of not guilty of all charges and specifications. The senior force judge advocate or designee may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge or counsel or has otherwise acted on behalf of the prosecution or defense. The senior force judge advocate or designee shall limit any review under this subsection to questions of subject matter jurisdiction ~~as~~ as that jurisdiction is set forth in NRS 412.256.*

7. *The record of trial and related documents in each case reviewed under subsection 6 must be sent for action to the Adjutant General.*

8. *The Adjutant General may:*

(a) *When subject matter jurisdiction is found to be lacking, void the court-martial ab initio, with or without prejudice to the government, as the Adjutant General deems appropriate; or*

(b) *Return the record of trial and related documents to the senior force judge advocate for appeal by the government as provided by law.*

Sec. 27. 1. *The senior force judge advocate shall detail a judge advocate as appellate government counsel to represent the State in the review or appeal of cases specified in NRS 412.432 and before any federal or state court when requested to do so by the Attorney General. Appellate counsel representing the government must be members in good standing of the State Bar of Nevada.*

2. *Upon an appeal by the State of Nevada, an accused has the right to be represented by detailed military counsel before any reviewing authority and before any appellate court.*

3. *Upon the appeal by an accused, the accused has the right to be represented by military counsel before any reviewing authority.*

4. *Upon the request of an accused entitled to be so represented, the senior force judge advocate shall appoint a judge advocate to represent the accused in the review or appeal of cases specified in subsections 2 and 3.*

5. *An accused may be represented by civilian appellate counsel at no expense to the State.*

*Sec. 28. Decisions of a court-martial are from a court with jurisdiction to issue felony convictions, and appeals are to the court provided by the law of the state in which the court-martial was held. Appeals are to be made to courts of the state where a court-martial is held only after the exhaustion of the review conducted pursuant to NRS 412.418 to 412.438, inclusive, and sections 24 to 28, inclusive, of this act. The appellate procedures to be followed must be those provided by law for the appeal of criminal cases thereto.*

*Sec. 29. Under regulations prescribed, an accused who has been sentenced by a court-martial may be required to take leave pending completion of any action under NRS 412.304 to 412.448, inclusive, and sections 18 to 32, inclusive, of this act, if the sentence includes an unsuspended dismissal, an unsuspended dishonorable discharge or a bad-conduct discharge. The accused may be required to begin such leave on the date on which the sentence is approved or at any time after such date, and such leave may be continued until the date on which action under NRS 412.304 to 412.448, inclusive, and sections 18 to 32, inclusive, of this act is completed or may be terminated at an earlier time.*

*Sec. 30. 1. Unless otherwise stated in this section, in the case of a person determined pursuant to section 20 of this act to be incompetent, the provisions of NRS 178.3981 to 178.4715, inclusive, are applicable. References to the court in NRS 178.3981 to 178.4715, inclusive, and to the judge of such court, shall be deemed to refer to the convening authority having authority to convene a general court-martial for that person. However, if the person is no longer subject to this Code at a time relevant to the application to the person of the relevant provisions of NRS 178.3981 to 178.4715, inclusive, the state trial court with felony jurisdiction in the county where the person is committed or otherwise may be found retains the powers specified in NRS 178.3981 to 178.4715, inclusive, as if it were the court that ordered the commitment of the person.*

*2. When the ~~Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or the Administrator's designee~~ director of a facility in which a person is hospitalized pursuant to the actions taken by the convening authority having authority to convene a general court-martial for that person determines that the person ~~has recovered to such an extent that the person~~ is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case, the ~~Administrator or the Administrator's designee~~ director shall promptly transmit a notification of that determination to the convening authority having authority to convene a general court-martial for the person ~~or~~, the person's counsel and the authority having custody of the person. The*

~~Administrator or the Administrator's designee shall send a copy of the notification to the person's counsel. The Administrator~~ authority having custody of the person may retain custody of the person for not more than 30 days after ~~transmitting~~ receiving notification that the person has recovered to such an extent that the person is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case.

3. Upon receipt of a notification pursuant to subsection 2, the convening authority having authority to convene a general court-martial for the person shall promptly take custody of the person unless the person to which the notification applies is no longer subject to this Code. If the person is no longer subject to this Code, the ~~Administrator~~ state trial court with felony jurisdiction in the county where the person is committed or otherwise may be found may take any action within the authority of ~~the Administrator~~ that court that the ~~Administrator~~ court considers appropriate regarding the person.

Sec. 31. 1. If a person is found by a court-martial not guilty by reason of lack of mental responsibility or not guilty only by reason of lack of mental responsibility, the person must be committed to a suitable facility until the person is eligible for release through the procedures specified in NRS 178.467 to 178.471, inclusive.

2. The court-martial must conduct a hearing on the mental condition of the person in accordance with NRS 175.539. A report of the results of the hearing must be made to the convening authority having authority to convene a general court-martial for the person.

3. If the court-martial finds by clear and convincing evidence that the person is a person with mental illness, the convening authority having authority to convene a general court-martial for the person shall commit the person to the custody of ~~the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services~~ a suitable facility until the person is eligible for release through the procedures specified in NRS 178.467 to 178.471, inclusive.

4. Except as otherwise provided by law, the provisions of NRS 178.467 to 178.471, inclusive, apply in the case of a person committed to the custody of ~~the Administrator~~ a suitable facility pursuant to this section, except that the ~~state trial court with felony jurisdiction in the county where the person is committed~~ convening authority having authority to convene a general court-martial for the person shall be considered the court that ordered the person's commitment.

Sec. 32. At a hearing ordered pursuant to section 30 or 31 of this act, the person whose mental condition is the subject of the hearing must be represented by counsel and, if the person is financially unable to obtain

*adequate representation, counsel must be appointed for the person pursuant to NRS 412.364 if the hearing is conducted by a court-martial or pursuant to NRS 171.188 if the hearing is conducted by a court of this State. The person must be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his or her behalf, and to confront and cross-examine witnesses who appear at the hearing.*

*Sec. 33. Any person who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel or aircraft within the control or jurisdiction of any of the Armed Forces of the United States or in or about any shipyard, any manufacturing or industrial plant or any other place or institution engaged in work in aid of the prosecution of the war by the United States or elsewhere must be tried by a general court-martial.*

*Sec. 34. 1. Any person subject to this Code who, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, directly or indirectly communicates, delivers or transmits, or attempts to communicate, deliver or transmit, any object or information to any entity shall be punished as a court-martial may direct.*

*2. A person accused pursuant to this section must be given broad latitude to present matters in extenuation and mitigation.*

*3. Findings made pursuant to this section may be based on evidence introduced on the issue of guilt or innocence, and evidence introduced during the sentencing proceeding.*

*4. As used in this section:*

*(a) "Entity" means:*

*(1) A foreign government;*

*(2) A faction, party or military or naval force within a foreign country, whether recognized or unrecognized by the United States; or*

*(3) A representative, officer, agent, employee, subject or citizen of a government, faction, party or force that is described in subparagraph (1) or (2).*

*(b) "Object or information" includes, without limitation, a document, writing, code book, signal book, sketch, photograph, photolineart negative, blueprint, plan, map, model, note, instrument, appliance or other information relating to national defense.*

*Sec. 35. 1. Any person subject to this Code who wrongfully uses, possesses, manufactures, distributes, imports into customs territory of the United States, exports from the United States or introduces into an installation, vessel, vehicle or aircraft used by or under the control of the Armed Forces of the United States or of any state military forces a substance described in subsection 2 shall be punished as a court-martial may direct.*

2. *The substances referred to in subsection 1 include, without limitation:*

(a) *Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid and marijuana, and any compound or derivative of any such substance.*

(b) *Any substance not specified in paragraph (a) that is listed in a schedule of controlled substances prescribed by the President of the United States for the purposes of the Uniform Code of Military Justice of the Armed Forces of the United States, 10 U.S.C. §§ 801 et seq.*

(c) *Any other substance not referenced pursuant to paragraph (a) or (b) and that is listed in schedules I to V, inclusive, of 21 U.S.C. § 812.*

Sec. 36. 1. *Any person subject to this Code who engages in or causes nonconsensual sexual contact with or by another person, without legal justification or lawful authorization, is guilty of sexual assault or sexual misconduct and shall be punished by way of nonjudicial punishment or as a court-martial may direct.*

2. *Neither consent nor mistake of fact as to consent is an affirmative defense in a prosecution for sexual assault or sexual misconduct.*

3. *In a prosecution under this section, in proving that the accused made a threat, it need not be proven that the accused actually intended to carry out the threat.*

4. *As used in this section:*

(a) *“Nonconsensual” means:*

(1) *Using force against the other person before consent or to gain consent;*

(2) *Causing grievous bodily harm to a person;*

(3) *Threatening or placing a person in fear to gain consent;*

(4) *Rendering a person unconscious;*

(5) *Administering to a person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct;*

(6) *Receiving verbal nonconsent before the act; or*

(7) *Lack of permission given.*

(b) *“Sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of another person or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh or buttocks of any person, with an intent to abuse, humiliate or degrade any person or to arouse or gratify the sexual desire of any person.*

**Sec. 37. 1. Any person subject to this Code:**

*(a) Who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including, without limitation, sexual assault, to himself or herself or a member of his or her immediate family;*

*(b) Who has knowledge or should have knowledge that the specific person will be placed in reasonable fear of death or bodily harm, including, without limitation, sexual assault, to himself or herself or a member of his or her immediate family; and*

*(c) Whose acts induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family,*

*↪ is guilty of stalking and shall be punished as a court-martial may direct.*

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

*(a) "Course of conduct" means a repeated:*

*(1) Maintenance of visual or physical proximity to a specific person;*

*or*

*(2) Conveyance of verbal threats, written threats or threats implied by conduct or a combination of such threats, directed at or toward a specific person.*

*(b) "Immediate family," in the case of a specific person, means a spouse, parent, child or sibling of that person or any other family member, relative or intimate partner of the person who regularly resides in the household of the person or who regularly engages in contact with the person.*

*(c) "Repeated," with respect to conduct, means two or more occasions of such conduct.*

**Sec. 38. 1. Any person subject to this Code who wrongfully takes, obtains or withholds by any means, from the possession of the owner or of any other person, any money, personal property or article of value of any kind:**

*(a) With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, steals that property and is guilty of larceny; or*

*(b) With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of another person other than the owner, is guilty of wrongful appropriation.*

**2. Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.**



*Sec. 39. Any person subject to this Code who communicates threats to another person with the intention thereby to obtain anything of value or any acquaintance, advantage or immunity is guilty of extortion and shall be punished as a court-martial may direct.*

*Sec. 40. Any person subject to this Code who:*

*1. Attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.*

*2. Commits an assault and intentionally inflicts grievous bodily harm with or without a weapon is guilty of aggravated assault and shall be punished as a court-martial may direct.*

*Sec. 41. 1. The following persons may administer oaths for the purposes of military administration, including military justice:*

*(a) Any judge advocate;*

*(b) Any summary court-martial;*

*(c) Any adjutant, assistant adjutant, acting adjutant and personnel adjutant;*

*(d) Any commanding officer of the naval militia; and*

*(e) Any other person so designated by regulations of the Armed Forces of the United States or by the laws of this State.*

*2. The following persons may administer oaths necessary in the performance of their duties:*

*(a) The president, military judge and trial counsel for all general and special courts-martial;*

*(b) The president and the counsel for the court of any court of inquiry;*

*(c) Any officer designated to take a deposition;*

*(d) Any person detailed to conduct an investigation;*

*(e) Any recruiting officer; and*

*(f) Any other person so designated by regulations of the Armed Forces of the United States or by the laws of this State.*

*3. The signature without seal of any person, together with the title of his or her office, is prima facie evidence of the authority of that person.*

*Sec. 42. This Code shall be so construed as to effectuate its general purpose to make it uniform, so far as practical, with the Uniform Code of Military Justice, 10 U.S.C. §§ 801 et seq.*

*Sec. 43. The provisions of this Code are hereby declared independent and severable and the invalidity, if any, or part or feature thereof shall not affect or render the remainder of such Code invalid or inoperative.*

*Sec. 44. Enlisted personnel of the Nevada National Guard, including retired enlisted members thereof, may organize themselves into an association, which is to be named the Nevada Enlisted Association of the National Guard of the United States. The Association may adopt bylaws*

*not inconsistent with the statutes of this State and may alter and amend such bylaws. The Association may, upon request, provide advice and assistance to the Adjutant General regarding matters of concern to enlisted personnel of the Nevada National Guard.*

**Sec. 45.** NRS 412.014 is hereby amended to read as follows:

412.014 “Office” means the Office of the Military ~~[-]~~, ***including, without limitation, the Nevada Army National Guard and the Nevada Air National Guard.***

**Sec. 46.** NRS 412.022 is hereby amended to read as follows:

412.022 “Reservists” means members of the ***reservists of the*** Nevada National Guard ~~[Reserve.]~~ ***that are licensed by the Governor or by his or her designee.***

**Sec. 47.** NRS 412.024 is hereby amended to read as follows:

412.024 “Volunteers” means members of volunteer ***military*** organizations licensed by the Governor.

**Sec. 48.** NRS 412.026 is hereby amended to read as follows:

412.026 1. The militia of the State is composed of the Nevada National Guard and, when called into active service by the Governor, ***reservists to the*** Nevada National Guard ~~[Reserve]~~ and any volunteer ***military*** organizations licensed by the Governor.

2. The Nevada National Guard is an organized body of enlisted personnel between the ages of 17 and 64 years and commissioned officers between the ages of 18 and 64 years, divided into the Nevada Army National Guard and the Nevada Air National Guard.

3. ~~[The Nevada National Guard Reserve is an unorganized body comprising all able bodied residents of the State between the ages of 17 and 64 years who:~~

- ~~—(a) Are not serving in any force of the Nevada National Guard;~~
- ~~—(b) Are or have declared their intention to become citizens of the United States; and~~
- ~~—(c) Are not exempted from military duty under the laws of this state or the United States.~~

~~—4.]~~ If a volunteer ***military*** organization is formed and becomes licensed by the Governor, it shall consist of an organized body of able-bodied residents of the State between the ages of 17 and 64 years who are not serving in any force of the Nevada National Guard and who are or who have declared their intention to become citizens of the United States.

**Sec. 49.** NRS 412.044 is hereby amended to read as follows:

412.044 1. The Governor shall appoint an Adjutant General who shall hold office for a 4-year term or until relieved by reason of resignation, withdrawal of federal recognition or for cause to be determined by a court-martial. The current term of an Adjutant General shall continue until its

prescribed expiration date while such Adjutant General is serving in a federal active duty status under an order or call by the President of the United States.

2. To be eligible for appointment to the office of Adjutant General, a person must be an officer of the Nevada National Guard, federally recognized in the grade of lieutenant colonel or higher, and must have completed at least 6 ~~years~~ **years of** service in the Nevada National Guard as a federally recognized officer.

3. The Adjutant General may be appointed in the grade of lieutenant colonel or higher, but not exceeding that of major general. If appointed in a lower grade, the Adjutant General may be promoted by the Governor to any grade not exceeding that of major general.

**Sec. 50.** NRS 412.048 is hereby amended to read as follows:

412.048 The Adjutant General shall serve as the Chief of Staff to the Governor, the Director of the Office of the Military and the Commander of the Nevada National Guard, and:

1. Is responsible, under the direction of the Governor, for the supervision of all matters pertaining to the administration, discipline, mobilization, organization and training of the Nevada National Guard, *reservists of the* Nevada National Guard ~~[Reserve]~~ and volunteer *military* organizations licensed by the Governor.

2. Shall perform all duties required of him or her by the laws of the United States and of the State of Nevada, and the regulations issued thereunder.

3. Shall employ such deputies, assistants and other personnel as he or she deems necessary to assist in the performance of those duties required of the Adjutant General as Director of the Office. The Adjutant General may so employ either members of the Nevada National Guard or civilian personnel. The duties of all deputies, assistants and other personnel appointed must be prescribed by Office regulations. All such employees are in the unclassified service of the State except civilian, clerical, administrative, maintenance and custodial employees who are in the classified service of the State.

**Sec. 51.** NRS 412.054 is hereby amended to read as follows:

412.054 1. The Adjutant General may appoint two Assistant Adjutants General, one each from the Nevada Army National Guard and the Nevada Air National Guard, who may serve as Chief of Staff for Army and Chief of Staff for Air, respectively, at the pleasure of the Adjutant General or until relieved by reason of resignation, withdrawal of federal recognition or for cause to be determined by a court-martial.

2. To be eligible for appointment to the office of Assistant Adjutant General, a person must be an officer of the Nevada National Guard, federally recognized in the grade of lieutenant colonel or higher, and must have completed at least 6 ~~years~~ **years of** service in the Nevada National Guard

as a federally recognized officer . [~~3 years of which must be immediately before the appointment.~~]

3. An Assistant Adjutant General may be appointed in the grade of lieutenant colonel or higher, but not exceeding that of brigadier general. An Assistant Adjutant General may be promoted by the Governor to any grade not exceeding that of brigadier general.

4. The Assistant Adjutants General shall perform such duties as may be assigned by the Adjutant General.

5. Whoever serves as Chief of Staff for Army is in the unclassified service of the State and, except as otherwise provided in NRS 284.143, shall not hold any other city, county, state or federal office of profit.

6. In the event of the absence or inability of the Adjutant General to perform his or her duties, the Adjutant General shall designate by Office regulations:

(a) One of the Assistant Adjutants General to perform the duties of his or her office as Acting Adjutant General.

(b) If neither Assistant Adjutant General is available, any national guard officer to be the Acting Adjutant General.

→ The designated Assistant Adjutant General or designated officer may continue to receive his or her authorized salary while so serving as Acting Adjutant General, and shall so serve until the Adjutant General is again able to perform the duties of the office, or if the office is vacant, until an Adjutant General is regularly appointed and qualified.

**Sec. 52.** NRS 412.076 is hereby amended to read as follows:

412.076 1. Members of the militia of the State who are ordered to state active duty under the provisions of this chapter shall be deemed to be temporary employees of the State ~~[ ]~~ **for the purposes of subsection 9 of NRS 286.297.**

2. Regular employees of the Office may be ordered to state active duty under this chapter without jeopardizing their status as regular employees. Employees so ordered must be in an authorized leave status from their regular military office employment during the period served on active duty.

**Sec. 53.** NRS 412.088 is hereby amended to read as follows:

412.088 1. The Office ~~[shall]~~ **may** adopt and provide suitable medals, prizes or other awards for the promotion of rifle practice by duly organized rifle clubs of the Nevada ~~[State Rifle Association]~~ **Firearms Coalition** and organizations and members of the Nevada National Guard ~~[ ]~~ **when funds are available and appropriated by the State or the Federal Government.**

2. The Adjutant General shall encourage and promote rifle and pistol practice by Nevada clubs affiliated with the National Rifle Association of America, and select and appoint representatives from those clubs to attend the annual national rifle and pistol matches. Not more than \$1,000 of the

amount appropriated for the support of the Adjutant General's office may be used annually in the purchase of ammunition to be used by such rifle clubs, which ammunition must be sold at cost plus transportation charges.

**Sec. 54.** NRS 412.116 is hereby amended to read as follows:

412.116 1. The forces of the Nevada National Guard must be organized, armed, disciplined, governed, administered and trained as prescribed by applicable federal laws and regulations and Office regulations.

2. It hereby is declared to be the policy of the State that there must be an equality of treatment and opportunity for all persons in the Nevada National Guard without regard to race, creed, color, ~~[sex]~~ **gender, sexual orientation** or national origin.

3. *As used in this section, "sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.*

**Sec. 55.** NRS 412.126 is hereby amended to read as follows:

412.126 1. The Governor is authorized to issue licenses to bodies of persons to organize, drill and bear arms as **volunteer** military companies or **volunteer military** organizations.

2. Whenever any such body of persons associate themselves as a **volunteer** military company or **volunteer military** organization and drill with arms under the license of the Governor, the **volunteer** military company or **volunteer military** organization:

(a) Shall file with the Adjutant General annually, or at such time as the Governor or Adjutant General may designate, a muster roll of such **volunteer** military company or **volunteer military** organization certified by the oath of the commanding officer thereof. The muster roll shall contain the names, ages, occupations and places of residence of all members thereof, and the number and character of all arms in the possession of such organization.

(b) Is subject to inspection by the Adjutant General upon his or her request within such time as the Adjutant General shall designate.

3. Each member of such **volunteer** military company or **volunteer military** organization shall take and subscribe to an oath before a person authorized to administer it that he or she will support the Constitution of the United States and the Constitution of the State of Nevada and will obey and maintain all laws and obey all officers employed in administering those Constitutions and laws.

**Sec. 56.** NRS 412.128 is hereby amended to read as follows:

412.128 1. Whenever the Governor deems it necessary in time of peace, the Governor may call all or any part of the **reservists of the** Nevada National Guard ~~[Reserve]~~ or volunteer **military** organizations licensed by the Governor into active service to be organized pursuant to Office regulations to augment the Nevada National Guard as an internal security force.

2. In time of war, the Governor may call all or any part of the *reservists of the* Nevada National Guard ~~[Reserve]~~ or volunteer *military* organizations licensed by the Governor into active service to be organized pursuant to Office regulations to replace the Nevada National Guard as a state force when the Nevada National Guard is ordered into federal service.

3. Whenever laws of the United States authorize the organization of such state forces under federal recognition, the Governor or Adjutant General may promulgate such Office regulations as are necessary to comply with such federal laws and obtain federal recognition for the force authorized by this section.

**Sec. 57.** NRS 412.138 is hereby amended to read as follows:

412.138 When members of the Nevada National Guard are called into state active duty by the Governor to fight a fire, combat a flood or any other emergency where members of the Nevada National Guard are performing as a labor force rather than a military force, they shall receive pay and allowances ~~[equal to that received by the main labor force in the service of the State or Federal Government.]~~ *according to their respective military grade and pay status.*

**Sec. 58.** NRS 412.188 is hereby amended to read as follows:

412.188 1. The qualifications for enlistment and reenlistment, the periods of enlistment, reenlistment and voluntary extension of enlistment, the period of service, the form of oath to be taken and the manner and form of transfer and discharge of enlisted personnel of the Nevada National Guard must be those prescribed by applicable federal laws and regulations and Office regulations.

2. The Governor is authorized to extend the period of any enlistment, reenlistment, voluntary extension of enlistment or the period of service of enlisted personnel ~~[of]~~ *serving as reservists of* the Nevada National Guard ~~[Reserve]~~ or volunteer *military* organizations licensed by the Governor for a period not to exceed 6 months after the termination of an emergency declared by the Governor, the Legislature, the President or Congress.

3. Whenever the period of enlistment, reenlistment, voluntary extension of enlistment, and the period of service of enlisted personnel of the reserve components of the Armed Forces of the United States are extended, the Governor shall extend the period of any enlistment, reenlistment, voluntary extension of enlistment or the period of service of enlisted personnel in the corresponding ~~[force]~~ *component* of the Nevada National Guard for the same period.

**Sec. 59.** NRS 412.196 is hereby amended to read as follows:

412.196 NRS 412.196 to 412.584, inclusive, *and sections 2 to 43, inclusive, of this act* may be cited as the Nevada Code of Military Justice.

**Sec. 60.** NRS 412.198 is hereby amended to read as follows:

412.198 As used in the Nevada Code of Military Justice , *unless the context otherwise requires*, the words and terms defined in NRS 412.202 to 412.252, inclusive, *and sections 2 to 6, inclusive, of this act* ~~[shall, unless the context otherwise requires,]~~ have the meaning ascribed to them in ~~[such]~~ *those* sections.

**Sec. 61.** NRS 412.214 is hereby amended to read as follows:

412.214 “Commanding officer” ~~[includes only]~~ *means a* commissioned ~~[officer.]~~ *officer who by virtue of rank and assignment exercises primary command authority over a military organization or a prescribed territorial area, which under pertinent official directives is recognized as a command.*

**Sec. 62.** NRS 412.216 is hereby amended to read as follows:

412.216 “Commissioned officer” includes ~~[a]~~ *an officer* commissioned *in the Armed Forces of the United States and all* warrant ~~[officer.]~~ *officers of the same.*

**Sec. 63.** NRS 412.239 is hereby amended to read as follows:

412.239 “Military judge” means an official of a general or special court-martial . ~~[, who is a commissioned officer and who is licensed to practice law in the State of Nevada.]~~

**Sec. 64.** NRS 412.242 is hereby amended to read as follows:

412.242 “Nevada National Guard” includes the National Guard of the State, as defined in 32 U.S.C. § 101(3), the *reservists to the* Nevada National Guard ~~[Reserve]~~ and volunteer *military* organizations licensed by the Governor when called into active service by the Governor.

**Sec. 65.** NRS 412.254 is hereby amended to read as follows:

412.254 *I.* The following persons who are not in federal service are subject to this Code:

~~[1.]~~ *(a)* Members of the Nevada National Guard, whether or not they are in training pursuant to 32 U.S.C. §§ 501 to 507, inclusive.

~~[2.]~~ *(b)* *Retired, separated or discharged members of the Nevada National Guard, regardless of their entitlement to pay, if the offense charged occurred before their retirement, separation or discharge.*

*(c)* All other persons lawfully ordered to duty in or with the Nevada National Guard, from the dates they are required by the terms of the order or other directive to obey it.

*2. No person may be punished under this Code for any offense provided for in the Code unless:*

*(a) The person is subject to any provision of subsection 1 or is a member of the state military forces; and*

*(b) The offense is either a purely military offense or a civilian offense where there is a nexus between the offense and the state military forces.*

3. *To impose disciplinary action under the Code, there must be jurisdiction over the person pursuant to section 8 of this act and jurisdiction over the subject matter pursuant to NRS 412.256.*

4. *For jurisdictional issues based on assignment or attachment, each service component shall refer to the current rules and other guidance applicable to the service component, including, without limitation, regulations and policy directives. Before the initiation of any action pursuant to this Code, the judge advocate shall require that the commanding officer resolve any jurisdictional issue regarding assigned or attached personnel involved in the action.*

Sec. 66. NRS 412.256 is hereby amended to read as follows:

412.256 *The following ~~subject matter is subject~~ provisions apply with regard to jurisdiction under this Code:*

1. *An offense of a purely military nature contained in the Code may be the subject of administrative measures, nonjudicial punishment or courts-martial. Each military offense is derived from the Uniform Code of Military Justice, 10 U.S.C. §§ 801 et seq. and, to the extent not inconsistent with the Code provisions describing those offenses, this Code incorporates each element of the offense as described in the Uniform Code with the following clarifications:*

(a) *Insofar as an element of an offense described in the Uniform Code refers to the United States, the element also refers to this State.*

(b) *Insofar as an element of an offense described in the Uniform Code refers to persons in the service of the United States or officials thereof, the element also includes persons in the service of the state military forces or state officials as provided in the Code.*

(c) *Insofar as an element refers to the property of the United States, the element also includes property of this State.*

2. *Offenses of a nonmilitary nature may be the subject of administrative measures, nonjudicial punishment or court-martial provided that the person alleged to have committed the offense is subject to the Code and there is a nexus between the act or omission constituting the offense and the state military forces. Civilian criminal offenses may be subject to prosecution pursuant to 10 U.S.C. §§ 933 and 934 if that nexus is present.*

3. *A proper civilian court has primary jurisdiction when an act or omission violates both the Code and state or federal criminal law. In such cases, a state court-martial or nonjudicial proceeding for punishment may be initiated only after the civilian authority has declined to prosecute or has dismissed charges, provided jeopardy has not attached. However, nothing in this Code precludes a commanding officer from taking administrative action even if the civilian authority exercises jurisdiction. Administrative remedies are not considered double jeopardy.*



4. *Any member of the state military forces may be ordered to duty involuntarily for any purpose under the Code.*

5. *In conducting prosecutions, a judge advocate shall coordinate with the Attorney General of the State of Nevada, similar officials in the State or county or equivalent prosecutorial authorities and appropriate municipal prosecutorial authorities to ensure that the judge advocate prosecutes with the cooperation of those local and state prosecutors. A commanding officer shall refer all suspected civilian offenses to a judge advocate who shall coordinate with the proper authorities when appropriate.*

6. Each person discharged from the Nevada National Guard who is later charged with having fraudulently obtained the discharge is, subject to NRS 412.376, subject to trial by court-martial on that charge and is after apprehension subject to this Code while in the custody of the military for that trial. Upon conviction of that charge the person is subject to trial by court-martial for all offenses under this Code committed before the fraudulent discharge.

~~{2.}~~ 7. No person who has deserted from the Nevada National Guard may be relieved from amenability to the jurisdiction of this Code by virtue of a separation from any later period of service.

**Sec. 67.** NRS 412.286 is hereby amended to read as follows:

412.286 **1.** Under Office regulations, limitations may be placed on the powers granted by NRS 412.286 to 412.302, inclusive, **and sections 10 to 17, inclusive, of this act** with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of NRS 412.286 to 412.302, inclusive, **and sections 10 to 17, inclusive, of this act** to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, punishment may not be imposed upon any member of the Nevada National Guard under NRS 412.286 to 412.302, inclusive, **and sections 10 to 17, inclusive, of this act** if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under Office regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by Office regulations, a commanding officer exercising general court-martial jurisdiction or an officer of general rank in command may delegate his or her powers under NRS 412.286 to 412.302, inclusive, **and sections 10 to 17, inclusive, of this act** to a principal assistant.

**2.** *When nonjudicial punishment has been imposed for an offense, nonjudicial punishment may not again be imposed for the same offense. Administrative action can be taken for the same offense and will not be considered double punishment under the Code. For the purposes of this*

*subsection, “same offense” means an offense that was part of a single incident or course of conduct.*

*3. After nonjudicial punishment has been imposed, it may not be increased, upon appeal or otherwise, unless the punishment imposed was not provided for in the Code.*

*4. When a commanding officer determines that nonjudicial punishment is appropriate for a particular serviceman or servicewoman, all known offenses determined to be appropriate for disposition by nonjudicial punishment and ready to be considered at that time, including, without limitation, all such offenses arising from a single incident or course of conduct, must ordinarily be considered together, rather than being made the basis for multiple punishment.*

*5. Nonjudicial punishment may not be imposed for any offense which was committed more than 3 years before the date of imposition of punishment, unless such 3-year limitation is waived by the accused in writing or unless the accused has filed an appeal under this Code.*

*6. Nothing in subsection 2 or 4 precludes a commanding officer from imposing, at one time, more than one punishment nonjudicially for the offense or offenses arising from a single incident or course of conduct authorized in the Code.*

**Sec. 68.** NRS 412.288 is hereby amended to read as follows:

412.288 Subject to NRS 412.286, ~~[any]~~ a commanding officer may ~~[, in addition to or in lieu of admonition or reprimand,]~~ impose one or more of the following *authorized maximum* disciplinary punishments *listed in this section* for minor offenses, without the intervention of a court-martial:

~~[1. Upon officers of his or her command:~~

~~— (a) Restriction to certain specified limits, with or without suspension from duty, for not more than 30 consecutive days.~~

~~— (b) If imposed by an officer exercising general court martial jurisdiction or an officer of general rank in command:~~

~~— (1) Arrest in quarters for not more than 30 consecutive days;~~

~~— (2) Forfeiture of not more than one-half of 1 month’s pay per month for 2 months;~~

~~— (3) Restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days; or~~

~~— (4) Detention of not more than one-half of 1 month’s pay per month for 3 months.~~

~~2. Upon other personnel of his or her command:~~

~~— (a) Correctional custody for not more than 7 consecutive days.~~

~~— (b) Forfeiture of not more than 7 days’ pay.~~

~~—(e) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction.~~

~~—(d) Extra duties, including fatigue or other duties, for not more than 14 consecutive days.~~

~~—(e) Restriction to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days.~~

~~—(f) Detention of not more than 14 days' pay.~~

~~—(g) If imposed by an officer of the grade of major or above:~~

~~—(1) Correctional custody for not more than 30 consecutive days;~~

~~—(2) Forfeiture of not more than one-half of 1 month's pay per month for 2 months;~~

~~—(3) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E 4 may not be reduced more than two pay grades;~~

~~—(4) Extra duties, including fatigue or other duties, for not more than 45 consecutive days;~~

~~—(5) Restrictions to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days; or~~

~~—(6) Detention of not more than one-half of 1 month's pay per month for 3 months.~~

~~↪ Detention of pay shall be for a stated period of not more than 1 year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of arrest in quarters, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this subsection, "correctional custody" is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court martial.]~~

*1. The maximum punishments a company grade officer may impose upon enlisted members of the officer's command for each offense are:*

*(a) For traditional guard members of the Nevada National Guard:*

*(1) Suspension from duty for not more than two drill periods which need not be consecutive;*

(2) *Forfeiture of pay for not more than two drill periods which need not be consecutive;*

(3) *Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction;*

(4) *Withholding of privileges for not more than 6 consecutive months;*

(5) *Reprimand; and*

(6) *Admonition.*

(b) *For active guard reserve members of the Nevada National Guard:*

(1) *Suspension from duty for not more than 14 days which need not be consecutive;*

(2) *Forfeiture of pay for not more than 14 days which need not be consecutive;*

(3) *Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction;*

(4) *Withholding of privileges for not more than 6 consecutive months;*

(5) *Reprimand; and*

(6) *Admonition.*

2. *The maximum punishments a commanding officer of the grade of major or above may impose upon enlisted members of the officer's command are:*

(a) *Any punishment authorized in subsection 1.*

(b) *For traditional guard members of the Nevada National Guard:*

(1) *Suspension from duty for not more than four drill periods which need not be consecutive;*

(2) *Forfeiture of pay for not more than four drill periods which need not be consecutive; and*

(3) *Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.*

(c) *For active guard reserve members of the Nevada National Guard:*

(1) *Suspension from duty for not more than 1 month, the days of which need not be consecutive;*

(2) *Forfeiture of pay for not more than 1 month, the days of which need not be consecutive; and*

(3) *Reduction to the next inferior pay grade if the grade from which the serviceman or servicewoman is demoted is within the authority to promote of the officer imposing the reduction or any officer subordinate to*

*the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.*

*3. The maximum punishments which a commanding officer may impose upon officers under the commanding officer's command are:*

*(a) Any punishment otherwise authorized pursuant to this section and, if the commanding officer is a major or above, any punishment authorized in subsection 2.*

*(b) If imposed by an officer exercising general court-martial jurisdiction or an officer of general rank in command:*

*(1) For traditional guard members of the Nevada National Guard:*

*(I) Suspension from duty for not more than eight drill periods which need not be consecutive; and*

*(II) Forfeiture of pay for not more than one-half of one drill period's pay for eight drill periods which need not be consecutive.*

*(2) For active guard reserve members of the Nevada National Guard:*

*(I) Suspension from duty for not more than 2 months, the days of which need not be consecutive; and*

*(II) Forfeiture of pay for not more than one-half of 1 month's pay for 2 months, the days of which need not be consecutive.*

*4. The Governor, the Adjutant General, an officer exercising general court-martial authority or an officer of a general or flag rank may impose any punishment authorized in subsection 1, 2 or 3 upon any officer or enlisted member of the officer's command.*

**Sec. 69.** NRS 412.294 is hereby amended to read as follows:

412.294 *1.* The officer who imposes the punishment authorized in NRS 412.288, or the officer's successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under NRS 412.288, whether or not executed.

*2.* In addition, he or she may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges and property affected.

*3.* He or she may also mitigate reduction in grade to forfeiture or detention of pay. ~~When mitigating:~~

~~1. Arrest in quarters to restriction;~~

~~2. Correctional custody to extra duties or restriction, or both; or~~

~~3. Extra duties to restriction;~~

~~the mitigated punishment shall not be for a greater period than the punishment mitigated.]~~

*4.* When mitigating forfeiture of pay to detention of pay, the amount of the detention ~~shall~~ **must** not be greater than the amount of the forfeiture.

5. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under NRS 412.286 to 412.302, inclusive, **and sections 10 to 17, inclusive, of this act** by the officer who imposed the punishment mitigated.

**Sec. 70.** NRS 412.296 is hereby amended to read as follows:

412.296 **1.** A person punished under NRS 412.286 to 412.302, inclusive, **and sections 10 to 17, inclusive, of this act** who considers his or her punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under NRS 412.294 by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

- ~~1. Arrest in quarters for more than 7 days;~~
- ~~2. Correctional custody for more than 7 days;~~
- ~~3. Forfeiture of more than 7 days' pay;~~
- ~~4. Reduction of one or more pay grades from the fourth or a higher pay grade;~~
- ~~5. Extra duties for more than 14 days;~~
- ~~6. Restriction for more than 14 days; or~~
- ~~7. Detention of more than 14 days' pay;~~

**(a) Suspension or forfeiture of pay for more than two drill periods or 14 days; or**

**(b) Reduction of one or more pay grades,**

↪ the authority who is to act on the appeal shall refer the case to the State Judge Advocate for consideration and advice, and may so refer the case upon appeal from any punishment imposed under NRS 412.288.

**2. Appeals of nonjudicial punishment must be made to the next superior authority. The next superior authority is typically the commanding officer superior to the commanding officer who imposed the punishment. When a principal assistant imposes nonjudicial punishment, the next superior authority is the commanding officer superior to the commanding officer who delegated the power to the principal assistant to impose punishment.**

**3. Only one appeal is allowed pursuant to this section.**

**4. The accused must be given a reasonable time within which to submit an appeal. A reasonable time is ~~15~~ 30 days after imposition of the nonjudicial punishment or the time before the next monthly drill following imposition of the punishment, whichever comes ~~first~~ later.**

5. *A superior authority to the commanding officer who imposed the nonjudicial punishment, typically the next superior commanding officer, may act on an appeal.*

6. *Appeals must be in writing on applicable forms provided by the Office of the State Judge Advocate and must set forth the reasons for appeal and include additional documentation and evidence supporting the appeal. The superior authority may not consider additional evidence which was not presented to the commanding officer who imposed the nonjudicial punishment unless the exclusion of such evidence would yield an unjust result.*

7. *Before acting on an appeal, the superior authority shall refer the case to a judge advocate for consideration and advice. The judge advocate shall render an opinion as to the appropriateness of the punishment and whether the proceedings were conducted in accordance with law and regulations. When a case is so referred, the judge advocate is not limited to an examination of any written matter comprising the record of proceedings, and may make any inquiries and examine any additional matter deemed necessary.*

8. *In acting on an appeal, the superior authority may exercise the same power with respect to punishment imposed as may be exercised by the officer who imposed the nonjudicial punishment. The superior authority shall consider the record of proceedings, any matters submitted by the serviceman or servicewoman, any matters considered during legal review and any other appropriate matters. If the superior authority sets aside nonjudicial punishment due to procedural error, such superior authority may authorize additional proceedings by the imposing commanding officer or a successor, but the punishment shall be not more severe than that originally imposed. Upon completion of action by the superior authority, the accused must be promptly notified of the results.*

**Sec. 71.** NRS 412.298 is hereby amended to read as follows:

412.298 The imposition and enforcement of disciplinary punishment ~~under~~ *pursuant to* NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act*, for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable ~~under~~ *pursuant to* NRS 412.286 to 412.302, inclusive ~~;~~, *and sections 10 to 17, inclusive, of this act*, but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

**Sec. 72.** NRS 412.304 is hereby amended to read as follows:

412.304 1. In the Nevada National Guard not in federal service, there are general, special and summary courts-martial constituted like similar

courts of the Army and Air Force. They have the jurisdiction and powers, except as to punishments, and ~~shall~~ **must** follow the forms and procedures provided for those courts.

2. ~~Courts martial shall be constituted as follows:~~ **The three types of courts-martial for the state military forces include:**

(a) General courts-martial, consisting of:

(1) A military judge and not less than five members; or

(2) ~~[A]~~ **Only a** military judge ~~alone,~~ if, before the court is assembled, the accused, knowing the identity of the military judge ~~]~~ and after consultation with defense counsel, requests **orally on the record or** in writing ~~]~~ a court composed ~~only]~~ of **only** a military judge, ~~provided]~~ **and** the military judge approves ~~[- A court composed only of a military judge is not available to one accused of an offense punishable by death, except when the case has been referred to a trial as a noncapital case.]~~ **the request.**

(b) Special courts-martial, consisting of:

(1) A military judge and not less than three members; or

(2) ~~[A]~~ **Only a** military judge ~~alone,~~ if **one has been detailed to the court and** the accused, under the same conditions as those prescribed in subparagraph (2) of paragraph (a) of this subsection, so requests ~~]~~ **and the military judge approves the request.**

(c) Summary courts-martial, consisting of one commissioned officer.

**Sec. 73.** NRS 412.308 is hereby amended to read as follows:

412.308 Subject to NRS 412.306, general courts-martial have jurisdiction to try persons subject to this Code for any offense made punishable by this Code and may, under such limitations as the Governor may prescribe, adjudge any ~~of the following punishments:~~

~~1. A fine of not more than \$200 or forfeiture of pay and allowances of not more than \$200;~~

~~2. Confinement with hard labor for not more than 200 days;~~

~~3. Dishonorable discharge, bad conduct discharge or dismissal;~~

~~4. Reprimand;~~

~~5. Reduction of enlisted persons to a lower grade; or~~

~~6. Any combination of these punishments.]~~ **punishment allowed by the Code.**

**Sec. 74.** NRS 412.312 is hereby amended to read as follows:

412.312 Subject to NRS 412.306, special courts-martial have jurisdiction to try persons subject to this Code for any offense for which they may be punished under this Code ~~[- A special court martial may adjudge any punishment a general court martial may adjudge, except dishonorable discharge, dismissal or confinement with hard labor for more than 100 days, forfeiture of pay and allowances of more than \$100 or a fine of more than \$100.]~~ **and may, under such limitations as the Governor may prescribe,**



*adjudge any punishment not forbidden by this Code except for dishonorable discharge, dismissal, confinement for more than 1 year, forfeiture of pay exceeding one-half pay per month or forfeiture of pay for more than 1 year.*

**Sec. 75.** NRS 412.314 is hereby amended to read as follows:

412.314 1. Subject to NRS 412.306, summary courts-martial have jurisdiction to try persons subject to this Code, except officers ~~and warrant officers,~~ *, cadets, candidates and midshipmen*, for any offense made punishable by this Code ~~under such limitations as the Governor may prescribe.~~

2. No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if the person objects thereto . ~~[, unless under NRS 412.286, he or she has been permitted and has elected to refuse punishment under NRS 412.286 to 412.302, inclusive.]~~ If objection to trial by summary court-martial is made by an accused ~~[who has not been permitted to refuse punishment under NRS 412.286 to 412.302, inclusive, trial shall be ordered by special or general court martial, as may be appropriate.~~

~~3. Summary courts martial may adjudge any of the following punishments:~~

- ~~—(a) Confinement with hard labor for not exceeding 25 days;~~
- ~~—(b) A fine of not more than \$25 or forfeiture of pay and allowances of not more than \$25 for a single offense;~~
- ~~—(c) Reduction of enlisted persons to a lower grade; and~~
- ~~—(d) Any combination of these punishments.] , trial by special or general court-martial may be ordered, as may be appropriate. Summary courts-martial may, under such limitations as the Governor may prescribe, adjudge any punishment not forbidden by this Code except dismissal, dishonorable or bad-conduct discharge, confinement for more than 1 month, restriction to specified limits for more than 2 months or forfeiture of more than one-half of 1 month's pay.~~

**Sec. 76.** NRS 412.324 is hereby amended to read as follows:

412.324 1. In the Nevada National Guard not in federal service, a general ~~[courts martial]~~ *court-martial* may be convened by the : ~~[President or by the]~~

- (a) Governor ~~[ ]~~;
- (b) *Adjutant General*;
- (c) *Commanding officer of a component of the state military forces*;
- (d) *Commanding officer of a division or a separate brigade*; or
- (e) *Commanding officer of a separate wing*.

2. *If any such commanding officer is an accuser, the court shall be convened by superior competent authority and may in any case be*

*convened by such superior authority if considered desirable by such authority.*

**Sec. 77.** NRS 412.326 is hereby amended to read as follows:

412.326 **1.** In the Nevada National Guard not in federal service, ~~the~~ *a special court-martial may be convened by:*

*(a) Any person who may convene a general court-martial;*

*(b) The commanding officer of a garrison, fort, post, camp, ~~airbase, auxiliary airbase or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron or other detached command,~~ may convene special courts martial. Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.]*

*Nevada Air National Guard base or naval base or station;*

*(c) The commanding officer of a brigade, regiment, detached battalion or corresponding unit of the Nevada Army National Guard;*

*(d) The commanding officer of a wing, group, separate squadron or corresponding unit of the Nevada Air National Guard; or*

*(e) The commanding officer or officer in charge of any other command when empowered by the Adjutant General.*

**2.** *When any such officer is an accuser, the court must be convened by superior competent authority and may in any case be convened by such superior authority if considered desirable by such authority.*

**Sec. 78.** NRS 412.328 is hereby amended to read as follows:

412.328 **1.** In the Nevada National Guard not in federal service, ~~the commanding officer of a garrison, fort, post, camp, airbase, auxiliary airbase or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company or other detachment, may convene a summary court martial consisting of one commissioned officer. The proceedings shall be informal.]~~ *a summary court-martial may be convened by:*

*(a) Any person who may convene a general court-martial;*

*(b) The commanding officer of a detached company or other detachment or corresponding unit of the Nevada Army National Guard;*

*(c) The commanding officer of a detached squadron or other detachment or the corresponding unit of the Nevada Air National Guard; or*

*(d) The commanding officer or officer in charge of any other command when empowered by the Adjutant General.*

**2.** When only one commissioned officer is present with a command or detachment he or she shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him or her. Summary courts-martial may, however, be

convened in any case by superior competent authority when considered desirable by ~~him or her,~~ *such authority.*

**Sec. 79.** NRS 412.332 is hereby amended to read as follows:

412.332 1. Any commissioned officer of or on duty with the Nevada National Guard is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

2. Any warrant officer of or on duty with the Nevada National Guard is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

3. Any enlisted member of the Nevada National Guard who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but he or she shall serve as a member of a court only if, before the ~~convening of the court,~~ *conclusion of a session called by the military judge before trial or, in the absence of such a session, before the court is assembled for the trial of the accused,* the accused personally has requested *orally on the record or* in writing that enlisted members serve on it. After such a request, the accused *serviceman or servicewoman* may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained. As used in this subsection, the word "unit" means any regularly organized body of the Nevada National Guard not larger than a company, a squadron or a corresponding body.

4. When it can be avoided, no person subject to this Code shall be tried by a court-martial any member of which is junior to him or her in rank or grade.

5. When convening a court-martial, the convening authority shall detail as members thereof such members of the Nevada National Guard as, in his or her opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of the Nevada National Guard is eligible to serve as a member of a general or special court-martial when he or she is the accuser, ~~or~~ a witness, ~~for the prosecution~~ or has acted as investigating officer or as counsel in the same case.

6. *Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating*

*in the case. The convening authority may delegate the authority under this subsection to a judge advocate or to any other principal assistant.*

7. If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member of the bar of the State and of appropriate rank, the convening authority shall appoint him or her as president of a special court-martial. Although this requirement is binding on the convening authority, failure to meet it in any case does not divest a military court of jurisdiction.

**Sec. 80.** NRS 412.334 is hereby amended to read as follows:

412.334 1. *A military judge must be detailed to each general and special court-martial. The military judge shall preside over each open session of the court-martial to which the military judge has been detailed.*

2. The authority convening a general or special court-martial shall request the State Judge Advocate to detail a military judge. *Neither the convening authority nor any staff member of the convening authority may prepare or review any report concerning the effectiveness, fitness or efficiency of the military judge who is detailed if the report relates to the military judge's performance of duty as a military judge.*

~~{2-}~~ 3. No person may act as military judge in a case wherein the person is the accuser, a witness, ~~{for the prosecution,}~~ counsel or has acted as investigating officer.

~~{3-}~~ 4. The military judge may not consult with the members of the court except in the presence of the accused and trial and defense counsel, nor may he or she vote with the members of the court.

**Sec. 81.** NRS 412.336 is hereby amended to read as follows:

412.336 1. For each general and special court-martial the authority convening the court shall request the State Judge Advocate to detail trial and defense counsel and such assistants as he or she considers appropriate.

2. No person who has acted as investigating officer, military judge or court member may thereafter act as trial counsel or assistant trial counsel in the same case.

3. Unless requested by the accused, no person who has acted as investigating officer, military judge or court member may thereafter act as defense counsel or assistant defense counsel in the same case.

4. No person who has acted for the prosecution may thereafter act for the defense in the same case; nor may any person who has acted for the defense act for the prosecution in the same case.

5. Counsel for general and special courts-martial shall be a member of the bar of the highest court of a state or of a federal court.

6. *Except as otherwise provided in subsection 7, trial counsel or defense counsel detailed for a general or special court-martial must be a*

*judge advocate, and trial counsel must be a member in good standing of the State Bar of Nevada.*

*7. In the instance when defense counsel is not a member of the State Bar of Nevada, the defense counsel must be deemed admitted pro hac vice, subject to filing a certificate with the military judge setting forth the qualifications that counsel is:*

*(a) A commissioned officer of the Armed Forces of the United States or a component thereof;*

*(b) A member in good standing of the bar of the highest court of his or her state; and*

*(c) Certified as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy or the Marine Corps; or*

*(d) A judge advocate as defined in this Code.*

**Sec. 82.** NRS 412.342 is hereby amended to read as follows:

412.342 1. No member of a general or special court-martial may be absent or excused after ~~[the accused has been arraigned except]~~ *the court has been assembled for the trial of the accused unless:*

*(a) Excused as a result of a challenge;*

*(b) Excused by the military judge for physical disability ; or ~~as a result of a challenge or by]~~*

*(c) By order of the convening authority for good cause.*

2. Whenever a general court-martial, *other than a general court-martial composed of a military judge only*, is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the military judge, the accused and counsel.

3. Whenever a special court-martial is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. When the new members have been sworn, the trial shall proceed as if no evidence has previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

*4. If the military judge of a court-martial composed of a military judge only is unable to proceed with trial because of physical disability, as a result of a challenge or for other good cause, the trial will proceed, subject to any applicable conditions of NRS 412.334, after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation*

*thereof is read in court in the presence of the new military judge, the accused and counsel for both sides.*

**Sec. 83.** NRS 412.348 is hereby amended to read as follows:

412.348 1. No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

2. The accused shall be advised of the charges against him or her and of his or her right to be represented at that investigation by counsel. Upon his or her own request he or she shall be represented by civilian counsel if provided by him or her, or military counsel of his or her own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him or her if they are available and to present anything he or she may desire in his or her own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

3. If an investigation of the subject matter of an offense has been conducted before the accused is charged with an offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination and presentation prescribed in subsection 2, no further investigation of that charge is necessary under this section unless it is demanded by the accused after he or she is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his or her own behalf.

4. *If evidence adduced in an investigation under this section indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused is:*

- (a) Present at the investigation;*
- (b) Informed of the nature of each uncharged offense investigated; and*
- (c) Afforded the opportunities for representation, cross-examination and presentation prescribed in subsection 2.*

5. The requirements of this section are binding on all persons administering this Code but failure to follow them does not divest a military court of jurisdiction.

**Sec. 84.** NRS 412.354 is hereby amended to read as follows:

412.354 1. Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the State Judge Advocate for consideration and advice. The convening authority may not refer a *specification under a* charge to a general court-martial for trial unless ~~he or she has found that the charge alleges an offense under this Code and is warranted by evidence indicated in the report of the investigation.]~~ *the convening authority has been advised in writing by a judge advocate that:*

- (a) *The specification alleges an offense under this Code;*
- (b) *The specification is warranted by evidence indicated in the report of the investigation, if there is such a report; and*
- (c) *A court-martial would have jurisdiction over the accused and the offense.*

2. If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence, may be made.

3. *The advice of the State Judge Advocate pursuant to subsection 1, with respect to a specification under a charge, must include a written and signed statement by the judge advocate:*

- (a) *Expressing conclusions with respect to each matter set forth in subsection 1; and*
- (b) *Recommending action that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the judge advocate must accompany the specification.*

**Sec. 85.** NRS 412.358 is hereby amended to read as follows:

412.358 ~~[The procedure.]~~ *Pretrial, trial and posttrial procedures,* including modes of proof, ~~[in cases before military courts and other military tribunals]~~ *for cases before courts-martial arising under this Code and for courts of inquiry,* may be prescribed by ~~[Office regulations, which must, so far as practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the State, but which may not be contrary to or inconsistent with this Code.]~~ *the Governor or the Adjutant General by regulations, or as otherwise provided by law. The regulations prescribed under this section must apply the principles of law and the rules of evidence generally recognized in military criminal cases in the courts of the Armed Forces of the United States and must not be contrary to or inconsistent with this Code.*

**Sec. 86.** NRS 412.362 is hereby amended to read as follows:

412.362 ~~[No]~~

**1. Except as otherwise provided in subsection 2, no** authority convening a general, special or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand or admonish the court or any member, law officer or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its, his or her functions in the conduct of the proceeding. No person subject to this Code may attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving or reviewing authority with respect to his or her judicial acts.

**2. Subsection 1 does not apply with respect to:**

**(a) General instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial; or**

**(b) To statements and instructions given in open court by the military judge, summary court-martial officer or counsel.**

**3. In the preparation of an effectiveness, fitness or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the state military forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the state military forces or in determining whether a member of the state military forces should be retained on active status, no person subject to this Code may, in preparing any such report:**

**(a) Consider or evaluate the performance of duty of any such member as a member of a court-martial or witness therein; or**

**(b) Give a less favorable rating or evaluation of any counsel of the accused because of zealous representation before a court-martial.**

**Sec. 87.** NRS 412.364 is hereby amended to read as follows:

412.364 1. The trial counsel of a general or special court-martial shall prosecute in the name of the State and shall, under the direction of the court, prepare the record of the proceedings.

2. The accused has the right to be represented in his or her defense before a general or special court-martial ~~by~~ **or at an investigation as provided in NRS 412.348.**

**3. The accused may be represented:**

**(a) In his or her defense before a general or special court-martial, by civilian counsel ~~if provided by him or her, or by~~ at the provision and expense of the accused;**

**(b) By military counsel selected by the accused if reasonably available ; ~~by~~ or ~~by~~**

**(c) By the defense counsel detailed under NRS 412.336.**



4. Should the accused have counsel of his or her own selection, the defense counsel and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his or her associate counsel, ~~;~~ otherwise they shall be excused by the president of the court.

5. *Except as otherwise provided in subsection 6, if the accused is represented by military counsel of his or her own selection pursuant to paragraph (b) of subsection 3, any military counsel detailed in paragraph (c) of subsection 3 must be excused.*

6. *The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under NRS 412.336 to detail counsel, in that person's sole discretion:*

(a) *May detail additional military counsel as assistant defense counsel; and*

(b) *If the accused is represented by military counsel of the accused's own selection pursuant to paragraph (b) of subsection 3, may approve a request from the accused that military counsel detailed in paragraph (c) of subsection 3 act as associate defense counsel.*

7. *The senior force judge advocate of the same component of which the accused is a member shall determine whether the military counsel selected by an accused is reasonably available.*

~~{3-}~~ 8. In every court-martial proceeding the defense counsel may, in the event of conviction ~~;~~ ~~forward~~:

(a) *Forward* for attachment to the record of proceedings a brief of such matters as the defense counsel feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he or she considers appropriate ~~;~~

~~—4-;~~

(b) *Assist the accused in the submission of any matter under NRS 412.452 to 412.562, inclusive, and sections 33 to 40, inclusive, of this act; and*

(c) *Take other action authorized by this Code.*

9. An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he or she is qualified to be a trial counsel as required by NRS 412.336, perform any duty imposed by law, regulation or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

~~{5-}~~ 10. An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he or she is qualified to be the defense counsel as required by NRS 412.336, perform any

duty imposed by law, regulation or the custom of the service upon counsel for the accused.

**Sec. 88.** NRS 412.366 is hereby amended to read as follows:

412.366 1. At any time after the service of charges, which have been referred for trial to a court-martial composed of a military judge and members, the military judge may call the court into session without the presence of the members for:

(a) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(b) Hearing and ruling upon any matter which may be ruled upon by the military judge whether or not the matter is appropriate for later consideration or decision by the members of the court;

(c) Holding the arraignment and receiving the pleas of the accused; or

(d) Performing any other procedural function which may be performed by the military judge which does not require the presence of the members of the court. These proceedings shall be conducted in the presence of the accused, defense counsel and trial counsel and shall be made a part of the record.

2. *The proceedings described in subsection 1 must be conducted in the presence of the accused, defense counsel and trial counsel and must be made a part of the record. Such proceedings are not required to adhere to the provisions of NRS 412.342.*

3. Whenever a general or special court-martial deliberates or votes, only the members of the court may be present. All other proceedings, including any other consultation of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

**Sec. 89.** NRS 412.372 is hereby amended to read as follows:

412.372 1. The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall be presented and decided before those by the accused are offered, unless justice dictates otherwise.

2. *If exercise of a challenge for cause reduces the court below the minimum number of members required by NRS 412.304, all parties shall, notwithstanding NRS 412.342, either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges must not be exercised at that time.*

3. Each accused and the trial counsel is entitled to one peremptory challenge, but the military judge may not be challenged except for cause.

4. *If exercise of a peremptory challenge reduces the court below the minimum number of members required by NRS 412.304, the parties shall, notwithstanding NRS 412.342, either exercise or waive any remaining peremptory challenge not previously waived against the remaining members of the court before additional members are detailed to the court.*

5. *Whenever additional members are detailed to the court and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.*

**Sec. 90.** NRS 412.374 is hereby amended to read as follows:

412.374 1. The military judge, interpreters, and in general and special courts-martial, members, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel and reporters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully.

2. *The form of the oath or affirmation, the time and place of the taking thereof, the manner of recording the same and whether the oath or affirmation must be taken for all cases in which these duties are to be performed or for a particular case must be as prescribed in regulation or as provided by law. The regulations may provide that:*

*(a) An oath or affirmation to perform faithfully the duties of a military judge, trial counsel or defense counsel may be taken at any time by any judge advocate or other person certified or designated to be qualified or competent for the duty; and*

*(b) If such an oath or affirmation is taken, it need not again be taken at the time the judge advocate or other person is detailed to that duty.*

3. Each witness before a military court shall be examined on oath or affirmation.

**Sec. 91.** NRS 412.376 is hereby amended to read as follows:

412.376 1. A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny, may be tried and punished at any time without limitation.

2. Except as otherwise provided in this section, a person charged with desertion in time of peace or the offense punishable under NRS 412.554, is not liable to be tried by court-martial if the offense was committed more than 3 years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

3. Except as otherwise provided in this section ~~§~~ *or title 15 of NRS*, a person charged with any offense is not liable to be tried by court-martial or punished under NRS 412.286 to 412.302, inclusive, *and sections 10 to 17, inclusive, of this act* if the offense was committed more than ~~§~~ 3 years

before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under NRS 412.286 to 412.302, inclusive ~~{ }~~, *and sections 10 to 17, inclusive, of this act.*

4. *Periods in which the accused is absent without authority or fleeing from justice are excluded in computing the period of limitation prescribed in this section.*

5. Periods in which the accused was absent from territory in which the State has the authority to apprehend the accused, or in the custody of civil authorities, or in the hands of the enemy, ~~{shall be}~~ *are* excluded in computing the period of limitation prescribed in this section.

6. *When the United States is at war, the running of any statute of limitations applicable to any offense under this Code:*

(a) *Involving fraud or attempted fraud against the United States, any state or any agency of either in any manner, whether by conspiracy or not;*

(b) *Committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States or any state; or*

(c) *Committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation or other termination or settlement of any contract, subcontract or purchase order which is connected with or related to the prosecution of war or with any disposition of termination inventory by any war contractor or government agency,*

*is suspended until 2 years after the termination of hostilities as proclaimed by the President of the United States or by a joint resolution of the Congress of the United States.*

7. *If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations has expired or will expire within 180 days after the dismissal of the charges or specifications, trial and punishment under new charges and specification are not barred by the statute of limitations if the new charges and specifications:*

(a) *Are received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and*

(b) *Allege the same acts or omissions that were alleged in the dismissed charges or specifications or allege acts or omissions that were included in the dismissed charges or specifications.*

**Sec. 92.** NRS 412.382 is hereby amended to read as follows:

412.382 *I.* If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with

the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

**2. *With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding constitutes the finding of the court unless the plea of guilty is withdrawn before the announcement of the sentence, in which event the proceedings must continue as though the accused had pleaded not guilty.***

**Sec. 93.** NRS 412.388 is hereby amended to read as follows:

412.388 A military court may punish for contempt any person who uses any menacing word, sign or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for 30 days or a fine of \$100, or both. ***A person not subject to this Code may be punished for contempt by a military court in the same otherwise applicable manner as that person could be punished if found in contempt of a criminal or civil court of the State.***

**Sec. 94.** NRS 412.396 is hereby amended to read as follows:

412.396 1. Voting by members of a general or special court-martial upon questions of challenge, on the findings and on the sentence ~~shall~~ ***must*** be by secret written ballot. The junior member of the court shall in each case count the votes. The court ~~shall~~ ***must*** be checked by the president, who shall forthwith announce the result of the ballot to the members of the court. ***Unless a ruling is final, if any member objects thereto, the court must be cleared and closed and the question decided by a voice vote as provided in NRS 412.398, beginning with the junior in rank.***

**2. *The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Except as otherwise provided in this subsection, any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court, including, without limitation, for the purposes of interlocutory appeal under NRS 412.418 to 412.438, inclusive, and sections 24 to 28, inclusive, of this act. During the trial, the military judge may change the ruling at any time.***

**3.** Before a vote is taken on the findings, and except where a court-martial is composed of a military judge alone, the military judge shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

(a) That the accused must be presumed to be innocent until his or her guilt is established by legal and competent evidence beyond reasonable doubt;

(b) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he or she must be acquitted;

(c) That if there is a reasonable doubt as to the degree of guilt, the findings must be in a lower degree as to which there is no reasonable doubt; and

(d) That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the State.

~~§ 4.~~ **4.** If the court-martial is composed of a military judge alone, he or she shall determine all questions of law and fact, and, if the accused is convicted, adjudge an appropriate sentence. The military judge shall make a general finding, unless requested to make a special finding of facts. If an opinion or memorandum decision is filed, it is sufficient if the findings of fact appear therein.

**Sec. 95.** NRS 412.398 is hereby amended to read as follows:

412.398 1. No person may be convicted of an offense, except by the concurrence of two-thirds of the members present at the time the vote is taken.

2. All sentences shall be determined by the concurrence of two-thirds of the members present at the time that the vote is taken.

3. All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote ~~§~~, **but a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by voice and by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for finding or sentence.** A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

**Sec. 96.** NRS 412.404 is hereby amended to read as follows:

412.404 1. Each **general and special** court-martial ~~shall~~ **must** keep a separate record of the proceedings of the trial of each case brought before it and the record must be authenticated by the signatures of the president and the military judge. If the record cannot be authenticated by either the president or the military judge, by reason of his or her absence, it must be signed by a member in lieu of him or her. If both the president and the military judge are unavailable, the record must be authenticated by two members. ~~[A record of the proceedings of a trial in which the sentence adjudged includes a bad conduct discharge or is more than that which could be adjudged by a special court martial must contain a complete verbatim~~

~~account of the proceedings and testimony before the court. All other records of trial must contain such matter and be authenticated in such manner as the Governor may, by Office regulation, prescribe.} *In a court-martial consisting of only a military judge, the court reporter shall authenticate the record under the same conditions which would impose such a duty on a member pursuant to this subsection.*~~

*2. A complete verbatim record of the proceedings and testimony must be prepared in each general and special court-martial case resulting in a conviction. In all other court-martial cases, the record must contain such matters as may be prescribed by regulations.*

*3. Each summary court-martial must keep a separate record of the proceedings in each case, and the record must be authenticated in the manner as may be prescribed by regulations.*

*4. A copy of the record of the proceedings of each general and special court-martial must be given to the accused as soon as it is authenticated. If a verbatim record of trial by general court-martial is not required by subsection ~~1~~ 2, the accused may buy such a record in accordance with Office regulations.*

**Sec. 97.** NRS 412.408 is hereby amended to read as follows:

412.408 1. The punishments which a court-martial may direct for an offense may not exceed limits prescribed by this Code ~~1~~, *but a sentence may not exceed more than confinement for 10 years for a military offense nor can a sentence of death be adjudged. Any conviction by general court-martial of any military offense for which an accused can receive a sentence of confinement for more than 1 year is a felony. Except for convictions by a summary court-martial, all other military offenses are misdemeanors. Any conviction by a summary court-martial is not a criminal conviction.*

*2. The limits of punishment for violations of punitive articles prescribed herein must be the lesser of the sentences prescribed by the Manual for Courts-Martial of the United States that went into effect on January 1, 2004, and the most current edition of the State manual for courts-martial, if any, but no punishment may exceed that authorized by this Code.*

*3. None of the provisions of this Code shall subject anyone to imprisonment for failure to pay a fine imposed by a military court.*

**Sec. 98.** NRS 412.414 is hereby amended to read as follows:

412.414 1. A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the Nevada National Guard or in any jail, detention facility, penitentiary or prison designated for that purpose. Persons so

confined in a jail, detention facility, penitentiary or prison are subject to the same discipline and treatment as persons confined or committed to the jail, detention facility, penitentiary or prison by the courts of the State or of any political subdivision thereof.

2. ~~[[The omission of the words “hard labor” from any sentence or punishment of a court martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.]]~~ ***No place of confinement may require payment of any fee or charge for so receiving or confining a person except as otherwise provided by law.***

3. The keepers, officers and wardens of city or county jails and of other jails, detention facilities, penitentiaries or prisons designated by the Governor, or by such person as the Governor may authorize to act under NRS 412.276, shall:

(a) Receive persons ordered into confinement before trial and persons committed to confinement by a military court; and

(b) Confine them according to law.

↪ A keeper, officer or warden may not require payment of any fee or charge for so receiving or confining a person.

**Sec. 99.** NRS 412.416 is hereby amended to read as follows:

412.416 1. Unless otherwise provided in Office regulations, a court-martial sentence of an enlisted member in a pay grade above E-1, as approved by the convening authority, that includes:

(a) A dishonorable or bad-conduct discharge; ***or***

(b) Confinement, ~~for~~

~~—(c) Hard labor without confinement.]~~

↪ reduces that member to pay grade E-1, effective on the date of that approval.

2. If the sentence of a member who is reduced in pay grade under subsection 1 is set aside or disapproved, or, as finally approved, does not include punishment named in subsection 1, the rights and privileges of which the member was deprived because of that reduction must be restored to him or her and he or she is entitled to the pay and allowances to which he or she would have been entitled, for the period the reduction was in effect, had the member not been so reduced.

**Sec. 100.** NRS 412.418 is hereby amended to read as follows:

412.418 1. Except as ***otherwise*** provided in NRS 412.316 to 412.432, inclusive, ***and sections 20 to 28, inclusive, of this act*** a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him or her. The convening authority shall approve the sentence or such part, amount or commuted form of the sentence



as he or she sees fit, and may suspend the execution of the sentence as approved by him or her.

2. *If the sentence of the court-martial includes dismissal, a dishonorable discharge or a bad-conduct discharge and if the right of the accused to appellate review is not waived and an appeal is not withdrawn, that part of the sentence extending to dismissal, a dishonorable discharge or a bad-conduct discharge must not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to the legality of the proceedings is final in such cases when review is completed by an appellate court prescribed in NRS 412.432, and is deemed final by the law of the state where judgment was had.*

3. *If the sentence of the court-martial includes dismissal, a dishonorable discharge or a bad-conduct discharge and if the right of the accused to appellate review is waived or an appeal is withdrawn, the dismissal, dishonorable discharge or bad-conduct discharge may not be executed until review of the case by the senior force judge advocate and any action on that review is completed. The convening authority or other person acting on the case under the Code when so approved under this section may order any other part of a court-martial sentence executed immediately.*

Sec. 101. NRS 412.422 is hereby amended to read as follows:

412.422 1. *The findings and sentence of a court-martial must be reported promptly to the convening authority after the announcement of the sentence.*

2. *The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Any such submission must be in writing. Except in a summary court-martial case, such a submission must be made within 10 days after the accused has been given an authenticated record of trial under subsection 4 and, if applicable, the recommendation of a judge advocate. In a summary court-martial case, such a submission must be made within 7 days after the sentence is announced.*

3. *If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under subsection 2 for not more than an additional 20 days.*

4. *In a summary court-martial case, the accused must be promptly provided a copy of the record of trial for use in preparing a submission authorized by subsection 2.*

5. *The accused may waive the right to make a submission to the convening authority under subsection 2. Such a waiver must be made in writing and may not be revoked. For the purposes of subsection 7, the time*

*within which the accused may make a submission pursuant to this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.*

*6. The convening authority has sole discretion to modify the findings and sentence of a court-martial pursuant to this section. If it is impractical for the convening authority to act, the convening authority shall forward the case to a person exercising general court-martial jurisdiction who may take action under this section.*

*7. Action on the sentence of a court-martial must be taken by the convening authority or by another person authorized to act under this section. The convening authority or other person authorized to take such action may do so only after consideration of any matters submitted by the accused pursuant to subsection 2 or after the time for submitting such matters expires, whichever is earlier. The convening authority or other person taking such action may approve, disapprove, commute or suspend the sentence in whole or in part.*

*8. The convening authority or other person authorized to act on the sentence of a court-martial may, in the person's sole discretion:*

*(a) Dismiss any charge or specifications by setting aside a finding of guilty;*

*(b) Change a finding of guilty on a charge or specification to a finding of guilty on an offense that is a lesser included offense of the offense stated in the charge or specification; or*

*(c) Refrain from taking any such action.*

*9. Before acting under this section on any general or special court-martial case in which there is a finding of guilt, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of a judge advocate. The convening authority or other person taking action under this section shall refer the record of trial to the judge advocate, and the judge advocate shall use such record in the preparation of the recommendation. The recommendation of the judge advocate must include such matters as may be prescribed by regulation and must be served on the accused, who may submit any matter in response pursuant to subsection 2. By failing to object in the response to the recommendation or to any matter attached to the recommendation, the accused waives the right to object thereto.*

*10. The convening authority or other person taking action under this section, in the person's sole discretion, may order a proceeding in revision or a rehearing if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to findings or sentence that can be rectified without material*

*prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision:*

*(a) Reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;*

*(b) Reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this Code; or*

*(c) Increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.*

*11. The convening authority or other person taking action under this section may order a rehearing if that person disapproves the findings and sentences and states the reasons for disapproval of the findings. If such person disapproves the findings and sentence and does not order a rehearing, that person shall dismiss the charges. The convening authority or other person taking action under this subsection may not order a rehearing as to the findings where there is a lack of sufficient evidence in the record to support the findings. The convening authority or other person taking action under this subsection may order a rehearing as to the sentence if that person disapproves the sentence.*

*12. After a trial by court-martial the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command or by the Governor.*

~~{2-}~~ *13. The convening authority shall refer the record of each general court-martial to the State Judge Advocate, who shall submit his or her written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion ~~[shall]~~ must be limited to questions of jurisdiction.*

**Sec. 102.** NRS 412.426 is hereby amended to read as follows:

412.426 1. If the convening authority disapproves the findings and sentence of a court-martial he or she may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case the convening authority shall state the reasons for disapproval. If the convening authority disapproves the findings and sentence and does not order a rehearing, he or she shall dismiss the charges.

2. Each rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he or she was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for

the offense is mandatory. *If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications upon which the pretrial agreement was based or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.*

**Sec. 103.** NRS 412.432 is hereby amended to read as follows:

412.432 1. *Except as otherwise required by this section, all records of trial and related documents must be transmitted and disposed of as prescribed by regulation and provided by law.*

2. If the convening authority is the Governor, his or her action on the review of any record of trial is final.

~~{2-}~~ 3. In all other cases not covered by subsection ~~{1-}~~ 2, if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the entire record must be sent to the appropriate staff judge advocate or legal officer of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate or legal officer must then be sent to the State Judge Advocate for review.

~~{3-}~~ 4. All other special and summary court-martial records must be sent to the law specialist or legal officer of the appropriate force of the Nevada National Guard and must be acted upon, transmitted and disposed of as may be prescribed by Office regulations.

~~{4-}~~ 5. The State Judge Advocate shall review the record of trial in each case sent to him or her for review as provided under subsection ~~{3-}~~ 4. If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the State Judge Advocate must be limited to questions of jurisdiction.

~~{5-}~~ 6. The State Judge Advocate shall take final action in any case reviewable by him or her.

~~{6-}~~ 7. In a case reviewable by the State Judge Advocate under this section, the State Judge Advocate may act only with respect to the findings and sentence as approved by the convening authority. The State Judge Advocate may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as he or she finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record he or she may weigh the evidence, judge the credibility of witnesses and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the State Judge Advocate sets aside the findings and sentence, he or she may, except where the setting aside is based on lack of sufficient evidence in the record to

support the findings, order a rehearing. If the State Judge Advocate sets aside the findings and sentence and does not order a rehearing, he or she shall order that the charges be dismissed.

~~{7.}~~ **8.** In a case reviewable by the State Judge Advocate under this section, he or she shall instruct the convening authority to act in accordance with his or her decision on the review. If the State Judge Advocate has ordered a rehearing but the convening authority finds a rehearing impracticable, he or she may dismiss the charges.

~~{8.}~~ **9.** The State Judge Advocate may order one or more boards of review each composed of not less than three commissioned officers of the Nevada National Guard, each of whom must be a member of the State Bar of Nevada. Each board of review shall review the record of any trial by special court-martial, including a sentence to a bad-conduct discharge, referred to it by the State Judge Advocate. Boards of review have the same authority on review as the State Judge Advocate has under this section.

**Sec. 104.** NRS 412.452 is hereby amended to read as follows:

412.452 No person may be tried or punished for any offense provided for in NRS 412.454 to 412.558, inclusive, *and sections 33 to 40, inclusive, of this act* unless it was committed while the person was in a duty status.

**Sec. 105.** NRS 412.566 is hereby amended to read as follows:

412.566 **1.** NRS 412.254, 412.256, 412.266 to 412.302, inclusive, *and sections 9 to 17, inclusive, of this act*, 412.332, 412.336, 412.362, 412.406, 412.452 to 412.556, inclusive, ~~and~~ 412.566 ~~{to}~~, **412.568**, 412.572 ~~{inclusive,}~~ *and section 8 of this act* must be carefully explained to every enlisted member ~~{at the time}~~:

(a) *At the time* of his or her enlistment or transfer or induction into ~~{or at the time}~~ *any of the state military forces or within 30 days thereafter;*

(b) *At the time* of his or her being ordered to duty in or with ~~{}~~ any of the state military forces or within 30 days thereafter. ~~{These}~~

**2.** *The sections set forth in subsection 1* must also be explained annually to each unit of the state military forces.

**3.** A complete text of this Code and Office regulations thereunder must be made available to any member of the militia, upon his or her request, for his or her personal examination.

**Sec. 106.** NRS 412.568 is hereby amended to read as follows:

412.568 Any member of the ~~{militia}~~ *state military forces* who believes himself or herself wronged by his or her commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the ~~{Adjutant General's office.}~~ *officer exercising general court-martial jurisdiction over the officer against whom the complaint is made. The officer exercising general court-martial jurisdiction shall examine the*

*complaint and take proper measures for redressing the wrong complained of and shall, as soon as possible, send to the Adjutant General a true statement of that complaint, with the proceedings had thereon.*

**Sec. 107.** NRS 412.576 is hereby amended to read as follows:

412.576 1. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court-martial shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his or her hand directed to any sheriff or constable of the county, commanding him or her to levy and collect such fines, together with the costs, upon and out of the property of the person against whom the fine or penalty was imposed.

2. Such warrant shall be executed and renewed in the same manner as executions from Justice Courts are executed and renewed.

3. The amount of such a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him or her, until the fine is liquidated. Any sum so deducted shall be turned in to the military court which imposed the fine and shall be paid over by the officer receiving it in like manner as provided for other fines and moneys collected under a sentence of a summary court-martial.

4. All fines collected shall be paid by the officer collecting the same to the commanding officer of the organization of which the person fined is or was a member and accounted for by the commanding officer in the same manner as are other state funds.

*5. Fines imposed by a military court or through imposition of nonjudicial punishment may be paid to the State and delivered to the court or imposing officer, or to a person executing their process. Fines may be collected in the following manner:*

*(a) By cash or money order;*

*(b) By retention of any pay or allowances due or to become due to the person fined from any state or the United States; or*

*(c) By garnishment or levy, together with costs, on the wages, goods and chattels of a person delinquent in paying a fine, as provided by law.*

**Sec. 108.** NRS 412.578 is hereby amended to read as follows:

412.578 1. No action or proceeding may be prosecuted against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

*2. All persons acting under the provisions of this Code, whether as a member of the military or as a civilian, are immune from any personal liability for any of the acts or omissions which they performed or failed to perform as part of their duties under this Code.*

**Sec. 109.** NRS 412.604 is hereby amended to read as follows:

412.604 1. It is unlawful for any body of persons whatever, other than the Nevada National Guard and the troops of the United States, to associate themselves together as a *volunteer* military company or *volunteer military* organization to drill or parade with arms in any city or town of this state, without the license of the Governor, which license may at any time be revoked.

2. Students in educational institutions where military science is a part of the course of instruction may, with the consent of the Governor, drill and parade with arms in public under the superintendence of their instructor.

3. Nothing contained in this section shall be construed so as to prevent members of benevolent or social organizations from wearing swords.

4. Any person violating any of the provisions of this section is guilty of a misdemeanor.

**Sec. 110.** NRS 412.184 and 412.292 are hereby repealed.

**Sec. 111.** This act becomes effective upon passage and approval.

#### **TEXT OF REPEALED SECTIONS**

##### **412.184 Allowances for uniform and equipment.**

1. A person who, on or after July 1, 1973, has completed 2 years of service as a commissioned officer or warrant officer of the Nevada National Guard, shall receive an allowance of \$100 at that time for uniforming and equipping himself or herself. Thereafter he or she shall receive, on completion of each 2 years of service, an additional allowance of \$100 to assist him or her in meeting the uniform requirements necessary to continued service in the Nevada National Guard.

2. The allowances set forth in subsection 1 must be paid from money available to the office only after the officer has furnished satisfactory evidence to the Adjutant General that he or she is properly entitled thereto.

**412.292 Powers of officer in charge to impose punishment.** An officer in charge may impose upon enlisted members assigned to the unit of which he or she is in charge such of the punishments authorized under paragraphs (a) to (f), inclusive, of subsection 2 of NRS 412.288 as the Adjutant General may specifically prescribe by Office regulation.

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Remarks by Assemblywoman Benitez-Thompson.  
Amendment adopted.  
Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 90.  
Bill read second time.

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

Amendment No. 719.

SUMMARY—Revises provisions relating to certain confidential information. (BDR ~~{19-468}~~ **48-468**)

AN ACT relating to confidential information; ~~{establishing a procedure for the submission to a}~~ **requiring a state or** local governmental entity ~~{of}~~ **to keep confidential certain** records which are ~~{claimed to be confidential and which are required by the entity as a condition of its consideration of}~~ **submitted to the entity in connection with** an application for a **special use permit or any other** license, permit or similar approval; ~~{providing for the determination of such a claim of confidentiality and the status and disposition of the records;}~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~{Various provisions of existing law provide for the confidentiality of records submitted to an official or agency of the State or Federal Government. For example, NRS 534A.031}~~ **Existing law** provides that exploration or subsurface information obtained as a result of a geothermal project must be filed with the Division of Minerals of the Commission on Mineral Resources and further provides that this information is confidential for 5 years after the date of filing. ~~{However, there is no similar provision making this information confidential if it is submitted to a county or other political subdivision of the State}~~ **(NRS 534A.031) Section 10.5 of this bill requires a state or local governmental entity to keep this information confidential during the same period if the information is submitted to the entity** in connection with an application for a special use permit or any other license, permit or similar approval.

~~{Where the submission to a local governmental entity of records that are otherwise declared bylaw to be confidential is required by the local governmental entity as a condition of its consideration of an application for a license, permit or similar approval, sections 6 and 7 of this bill establish an expedited process by which the applicant may assert a claim of confidentiality with respect to the records and obtain a determination of that claim from the chief legal officer or attorney of the local governmental entity. If the chief legal officer or attorney agrees that the records are confidential, section 8 of this bill requires the local governmental entity to~~



~~maintain the records in confidence. If the records are determined not to be confidential, section 8 gives the applicant the choice of withdrawing the records from the possession of the local governmental entity, with the result that the application may likewise be deemed to have been withdrawn, or waiving any claim of confidentiality and proceeding with the application.]~~

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

~~Section 1. [Chapter 239 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.] (Deleted by amendment.)~~

~~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, 4 and 5 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

~~Sec. 3. [“Applicant” means a person or governmental entity that submits an application to a local governmental entity.] (Deleted by amendment.)~~

~~Sec. 4. [“Application” means a request submitted by an applicant to a local governmental entity for a license, permit or any similar approval involving the exercise of governmental authority.] (Deleted by amendment.)~~

~~Sec. 5. [“Local governmental entity” has the meaning ascribed to it in NRS 239.121.] (Deleted by amendment.)~~

~~Sec. 6. [The records of a local governmental entity are confidential and not public books or records within the meaning of NRS 239.010 or any other provision of statute or regulation if the records meet all of the following requirements:~~

~~1. The records are specifically declared by a statute or regulation of this State or a federal statute or regulation to be confidential when submitted to an elected or appointed officer, institution, board, commission, bureau, council, department, division or other official or agency of the State or Federal Government;~~

~~2. The records are submitted to the local governmental entity by an applicant in connection with an application to the local governmental entity; and~~

~~3. The submission of the records is required by the local governmental entity as a condition of its consideration of the application.] (Deleted by amendment.)~~

~~Sec. 7. [1. An applicant who submits to a local governmental entity any records that the applicant believes are confidential for the purposes of sections 2 to 8, inclusive, of this act shall clearly mark the records as~~

~~confidential and submit with the records a written statement describing the records and specifically identifying each provision of statute or regulation, other than section 6 of this act, that declares the records to be confidential. Regardless of whether the records are determined to be confidential, the statement prepared pursuant to this subsection is a public record for the purposes of NRS 239.010 and any other provision of statute or regulation applicable to public books or records. The statement must also include the mailing address of the applicant, which is the applicant's address of record for the purposes of sections 2 to 8, inclusive, of this act. If that address changes at any time while the records remain in the possession of the local governmental entity, the applicant shall so notify the local governmental entity in writing.~~

~~2. Upon its receipt of the records and the written statement required by subsection 1, the local governmental entity shall transmit the records and the statement to its chief legal officer or attorney or to the person designated by the chief legal officer or attorney to conduct the review required by this subsection. Within 5 business days after he or she receives the records and the statement of the applicant, the chief legal officer or attorney or his or her designee shall review the records and the statement, conduct any additional investigation or analysis he or she deems appropriate, and determine whether the records are confidential for the purposes of sections 2 to 8, inclusive, of this act. Pending this determination, the records must not be revealed in whole or in part to any person or governmental entity except to the extent necessary to carry out the provisions of this section, or upon the order of a court of competent jurisdiction. The records are presumed not to be confidential unless the chief legal officer or attorney or his or her designee finds that the records, or any part thereof, are confidential based on the review of the records and the statement, and any additional investigation or analysis.~~

~~3. The chief legal officer or attorney or his or her designee may determine for the purposes of sections 2 to 8, inclusive, of this act that the records are confidential in part and not confidential in part, in which case those records determined to be confidential and those records determined not to be confidential are subject, respectively, to the provisions of sections 2 to 8, inclusive, of this act applicable to records of that kind. (Deleted by amendment.)~~

Sec. 8. ~~{1. Upon making the determination required by section 7 of this act, the chief legal officer or attorney of the local governmental entity or his or her designee shall cause written notice of the determination, including a statement of the basis for the determination, to be mailed to the applicant at the applicant's address of record. Regardless of whether the records are determined to be confidential, the notice prepared pursuant to~~

~~this subsection is a public record for the purposes of NRS 239.010 and any other provision of statute or regulation applicable to public books or records. If the records are determined not to be confidential for the purposes of sections 2 to 8, inclusive, of this act, the notice must also include a copy of this section. If the records are determined to be confidential in part and not confidential in part, the notice must identify the records that have been determined not to be confidential.~~

~~2. If the records are determined to be confidential for the purposes of sections 2 to 8, inclusive, of this act:~~

~~(a) The records must not be revealed in whole or in part to any person or governmental entity except:~~

~~(1) To the extent necessary to consider and act upon the application;~~

~~(2) As authorized or required by the statute or regulation pursuant to which the records are determined to be confidential; or~~

~~(3) Upon the order of a court of competent jurisdiction.~~

~~(b) The local governmental entity shall cause the records to be mailed to the applicant at the applicant's address of record:~~

~~(1) Upon the expiration of any period of confidentiality specified in the statute or regulation pursuant to which the records are determined to be confidential; or~~

~~(2) At such time as the records are no longer required by the local governmental entity for any purpose connected with the application, whichever is earlier.~~

~~3. If the records are determined not to be confidential for the purposes of sections 2 to 8, inclusive, of this act:~~

~~(a) The applicant may elect to:~~

~~(1) Withdraw the records from the possession of the local governmental entity, which withdrawal may be deemed by the local governmental entity to constitute a withdrawal of the application; or~~

~~(2) Waive any claim of confidentiality in the records, proceed with the application and authorize the local governmental entity to retain possession of the records.~~

~~The applicant must give written notice of the applicant's election to the local governmental entity within 10 business days after the date of mailing of the notice required by subsection 1.~~

~~(b) Notwithstanding the determination, unless the local governmental entity has received written notice of the applicant's waiver of any claim of confidentiality in the records, the records must not be revealed in whole or in part to any person or governmental entity except to the extent necessary to carry out the provisions of this section, or upon the order of a court of competent jurisdiction.~~

~~(e) If notice of the applicant's election pursuant to paragraph (a) is not received from the applicant by the local governmental entity within 15 business days after the date of mailing of the notice required by subsection 1, the local governmental entity shall cause the records to be mailed to the applicant at the applicant's address of record, and the local governmental entity may thereupon deem the application to be withdrawn.~~

~~4. If the applicant waives any claim of confidentiality in the records pursuant to subsection 3, the records are public books or records for the purposes of NRS 239.010 and any other provision of statute or regulation applicable to public books or records.~~

~~5. If the local governmental entity deems an application to be withdrawn pursuant to this section, it shall cause written notice of that action to be mailed to the applicant at the applicant's address of record within 5 business days after the date of the action. Such an action is a denial of the application for the purposes of any statute or regulation which provides for administrative or judicial review of the denial of an application of that kind. In any such review, the propriety of a determination that records are not confidential for the purposes of sections 2 to 8, inclusive, of this act is an issue properly within the scope of review.]~~  
**(Deleted by amendment.)**

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 10.5. **NRS 534A.031 is hereby amended to read as follows:**

534A.031 **1.** Any exploration and subsurface information obtained as a result of a geothermal project must be filed with the Division of Minerals of the Commission on Mineral Resources within 30 days after it is accumulated. The information is confidential for 5 years after the date of filing and may not be disclosed during that time without the express written consent of the operator of the project, except that it must be made available by the Division to the State Engineer or any other agency of the State upon request. The State Engineer or other agency shall keep the information confidential.

**2. If any information made confidential by subsection 1 is submitted to any other state or local governmental entity in connection with an application for a special use permit or any other license, permit or similar approval, the entity shall keep the information confidential during the period the information is confidential pursuant to subsection 1.**

Sec. 11. This act becomes effective on July 1, 2013.

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Remarks by Assemblywoman Benitez-Thompson.

Amendment adopted.

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

Senate Bill No. 131.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 728.

AN ACT relating to personal representatives; authorizing a personal representative to ~~take certain actions with respect to~~ **direct the termination of** a decedent's account on certain Internet websites; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law sets forth the powers and duties of a personal representative in the administration of the estate of a decedent. (Chapter 143 of NRS) This bill authorizes a personal representative to ~~take control of, conduct, continue or terminate~~ **direct the termination of** any account of the decedent on any Internet website providing social networking or web log, microblog, short message or electronic mail service.

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

**Section 1.** Chapter 143 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, subject to such restrictions as may be prescribed in the will of a decedent or by an order of a court of competent jurisdiction, a personal representative has the power to ~~take control of, conduct, continue or terminate~~ **direct the termination of any account of the decedent, including, without limitation:***

*(a) An account on any:*

- (1) Social networking Internet website;*
- (2) Web log service Internet website;*
- (3) Microblog service Internet website;*
- (4) Short message service Internet website; or*
- (5) Electronic mail service Internet website; or*

*(b) Any similar electronic or digital asset of the decedent.*

*2. The provisions of subsection 1 do not authorize a personal representative to ~~take control of, conduct, continue or terminate~~ **direct the termination of any financial account of the decedent, including, without limitation, a bank account or investment account.***

~~*3. The act by a personal representative to take control of, conduct or continue any account or asset of a decedent pursuant to subsection 1 does not invalidate or abrogate any conditions, terms of service or contractual obligations the holder of such an account or asset has with the provider or administrator of the account, asset or Internet website.*~~

Assemblyman Frierson moved the adoption of the amendment.

Remarks by Assemblyman Frierson.

Amendment adopted.

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

Senate Bill No. 244.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 696.

SUMMARY—Authorizes the ~~indication~~ **placement of a designation of** veteran status on ~~instruction permits, drivers' licenses and identification cards.~~ **certain documents issued by the Department of Motor Vehicles.** (BDR 43-80)

AN ACT relating to motor vehicles; authorizing a person who has been honorably discharged from the Armed Forces of the United States to obtain a designation on his or her instruction permit, driver's license or identification card indicating that he or she is a veteran; requiring the Department of Motor Vehicles, on a monthly basis, to submit to the Office of Veterans Services a list of persons who have declared that they are veterans of the Armed Forces; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Department of Motor Vehicles to place a designation on the instruction permit, driver's license or identification card of certain persons, including persons with a disability which impairs or limits the ability to walk. (NRS 483.349, 483.865) Existing law also requires the Department to inquire whether a person wishes to declare that he or she is a veteran when applying for an instruction permit, driver's license or identification card. (NRS 483.292, 483.852)

**Sections 6 and 9** of this bill require that a person who: (1) applies to the Department for the initial issuance or renewal of an instruction permit, driver's license or identification card; and (2) ~~wishes~~ **requests** to have imprinted on that permit, license or card a designation that he or she is a veteran of the Armed Forces of the United States, submit a copy of his or her DD Form 214, "Certificate of Release or Discharge from Active Duty," indicating that he or she was honorably discharged from the Armed Forces. If such a person fulfills the requirements of **section 6 or 9**, as applicable, **sections 2 and 3** of this bill require the Department to place ~~the word "Veteran"~~ **a designation that the person is a veteran** on the person's instruction permit, driver's license or identification card, as appropriate. **Sections 6 and 9** also require the Department to compile and submit to the Office of Veterans Services each month a list of persons who have declared that they are veterans of the Armed Forces. ~~[of the United States.]~~

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

**Section 1.** Chapter 483 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2. 1.** ~~Upon the application of a person who desires to declare~~ requests that his or her instruction permit or driver's license indicate that he or she is a veteran of the Armed Forces of the United States and has fulfilled the requirements of ~~pursuant to subsection 3 of NRS 483.292, and who satisfies the requirements of that subsection, the Department shall indicate~~ place on any instruction permit or driver's license issued to the person pursuant to the provisions of this chapter a designation that the person is a veteran. ~~[by imprinting on the instruction permit or driver's license the word "Veteran."]~~

**2.** ~~The Director shall determine the design and placement of the indication~~ designation of veteran status required by subsection 1 on any instruction permit or driver's license to which this section applies.

**Sec. 3. 1.** ~~Upon the application of a person who desires to declare~~ requests that his or her identification card indicate that he or she is a veteran of the Armed Forces of the United States and has fulfilled the requirements of ~~pursuant to subsection 3 of NRS 483.852, and who satisfies the requirements of that subsection, the Department shall indicate~~ place on any identification card issued to the person pursuant to this section and NRS 483.810 to 483.890, inclusive, a designation that the person is a veteran. ~~[by imprinting on the identification card the word "Veteran."]~~

**2.** ~~The Director shall determine the design and placement of the indication~~ designation of veteran status required by subsection 1 on any identification card to which this section applies.

**Sec. 4.** NRS 483.015 is hereby amended to read as follows:

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, **and section 2 of this act** apply only with respect to noncommercial drivers' licenses.

**Sec. 5.** NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, **and section 2 of this act**, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 483.292 is hereby amended to read as follows:

483.292 1. When a person applies to the Department for **the initial issuance of** an instruction permit or driver's license pursuant to NRS 483.290 ~~or~~ **the renewal of an instruction permit or driver's license,**

the Department shall inquire whether the person desires to declare that he or she is a veteran of the Armed Forces of the United States.

2. If the person desires to declare pursuant to subsection 1 that he or she is a veteran of the Armed Forces of the United States, the person shall provide ~~evidence~~ :

(a) *Evidence* satisfactory to the Department that he or she has been honorably discharged from the Armed Forces of the United States ~~;~~ *and*

(b) *A written release authorizing the Department to provide to the Office of Veterans Services personal information about the person, which release must be signed by the person and in a form required by the Director pursuant to NRS 481.063.*

3. ~~If the person declares pursuant to subsection 1 that he or she is a veteran of the Armed Forces of the United States, the Department shall count the declaration and maintain it only numerically in a record kept by the Department for that purpose.~~ *In addition to the declaration described in subsection 1, a person who is a veteran of the Armed Forces of the United States and who wishes to have ~~imprinted~~ placed on his or her instruction permit or driver's license ~~the word "Veteran"~~ a designation that he or she is a veteran, as described in section 2 of this act, must:*

(a) *If applying for the initial issuance of an instruction permit or driver's license, appear in person at an office of the Department and submit a copy of his or her DD Form 214, "Certificate of Release or Discharge from Active Duty," issued by the United States Department of Defense, indicating that the person has been honorably discharged from the Armed Forces of the United States.*

(b) *If applying for the renewal of an instruction permit or driver's license upon which ~~the word "Veteran"~~ a designation that the person is a veteran:*

(1) *Is not ~~imprinted~~ placed, submit by mail or in person a copy of his or her DD Form 214, "Certificate of Release or Discharge from Active Duty," issued by the United States Department of Defense, indicating that the person has been honorably discharged from the Armed Forces of the United States.*

(2) *Is ~~imprinted~~ placed, submit by mail, in person or by other means authorized by the Department a statement that the person wishes ~~to continue to have the word "Veteran" imprinted upon~~ the instruction permit or driver's license ~~;~~ to continue to designate that the person is a veteran.*

4. The Department shall, at least once each ~~quarter~~ *month*:

(a) Compile ~~the aggregate number~~ *a list* of persons who have, during the immediately preceding ~~quarter~~ *month*, declared pursuant to subsection 1 that they are veterans of the Armed Forces of the United States; and



(b) Transmit that ~~number~~ *list* to the Office of Veterans Services to be used for statistical and communication purposes.

**Sec. 7.** NRS 483.530 is hereby amended to read as follows:

483.530 1. Except as otherwise provided in subsection 2, it is a misdemeanor for any person:

(a) To display or cause or permit to be displayed or possess any cancelled, revoked, suspended, fictitious, fraudulently altered or fraudulently obtained driver's license;

(b) To alter, forge, substitute, counterfeit or use an unvalidated driver's license;

(c) To lend his or her driver's license to any other person or knowingly permit the use thereof by another;

(d) To display or represent as one's own any driver's license not issued to him or her;

(e) To fail or refuse to surrender to the Department, a peace officer or a court upon lawful demand any driver's license which has been suspended, revoked or cancelled;

(f) To permit any unlawful use of a driver's license issued to him or her;

(g) To do any act forbidden, or fail to perform any act required, by NRS 483.010 to 483.630, inclusive ~~[-]~~, **and section 2 of this act**; or

(h) To photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid license, or to display or possess any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by this chapter.

2. Except as otherwise provided in this subsection, a person who uses a false or fictitious name in any application for a driver's license or identification card or who knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the false statement, knowing concealment of a material fact or other commission of fraud described in this subsection relates solely to the age of a person, including, without limitation, to establish false proof of age to game, purchase alcoholic beverages or purchase cigarettes or other tobacco products, the person is guilty of a misdemeanor.

**Sec. 8.** NRS 483.620 is hereby amended to read as follows:

483.620 It is a misdemeanor for any person to violate any of the provisions of NRS 483.010 to 483.630, inclusive, **and section 2 of this act**, unless such violation is, by NRS 483.010 to 483.630, inclusive, **and section 2 of this act**, or other law of this State, declared to be a felony.

**Sec. 9.** NRS 483.852 is hereby amended to read as follows:

483.852 1. When a person applies to the Department for *the initial issuance of* an identification card pursuant to NRS 483.850 ~~or~~ *or the renewal of an identification card pursuant to NRS 483.875*, the Department shall inquire whether the person desires to declare that he or she is a veteran of the Armed Forces of the United States.

2. If the person desires to declare pursuant to subsection 1 that he or she is a veteran of the Armed Forces of the United States, the person shall provide ~~evidence~~:

(a) *Evidence* satisfactory to the Department that he or she has been honorably discharged from the Armed Forces of the United States ~~;~~; *and*

(b) *A written release authorizing the Department to provide to the Office of Veterans Services personal information about the person, which release must be signed by the person and in a form required by the Director pursuant to NRS 481.063.*

3. ~~If the person declares pursuant to subsection 1 that he or she is a veteran of the Armed Forces of the United States, the Department shall count the declaration and maintain it only numerically in a record kept by the Department for that purpose.~~ *In addition to the declaration described in subsection 1, a person who is a veteran of the Armed Forces of the United States and who wishes to have ~~imprinted~~ placed on his or her identification card ~~the word "Veteran"~~ a designation that he or she is a veteran, as described in section 3 of this act, must:*

(a) *If applying for the initial issuance of an identification card, appear in person at an office of the Department and submit a copy of his or her DD Form 214, "Certificate of Release or Discharge from Active Duty," issued by the United States Department of Defense, indicating that the person has been honorably discharged from the Armed Forces of the United States.*

(b) *If applying for the renewal of an identification card upon which ~~the word "Veteran"~~ a designation that the person is a veteran:*

(1) *Is not ~~imprinted~~ placed, submit by mail or in person a copy of his or her DD Form 214, "Certificate of Release or Discharge from Active Duty," issued by the United States Department of Defense, indicating that the person has been honorably discharged from the Armed Forces of the United States.*

(2) *Is ~~imprinted~~ placed, submit by mail, in person or by other means authorized by the Department a statement that the person wishes ~~to continue to have the word "Veteran" imprinted upon~~ the identification card ~~to~~ to continue to designate that the person is a veteran.*

4. The Department shall, at least once each ~~quarter~~ month:

(a) Compile ~~the aggregate number~~ *a list* of persons who have, during the immediately preceding ~~quarter,~~ *month*, declared pursuant to subsection 1 that they are veterans of the Armed Forces of the United States; and

(b) Transmit that ~~number~~ *list* to the Office of Veterans Services to be used for statistical *and communication* purposes.

**Sec. 10.** This act becomes effective on January 1, 2014.

Assemblyman Carrillo moved the adoption of the amendment.

Remarks by Assemblyman Carrillo.

Amendment adopted.

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

Senate Bill No. 278.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 662.

AN ACT relating to real property; establishing an expedited process for the foreclosure of abandoned residential property; authorizing a board of county commissioners or the governing body of an incorporated city to establish by ordinance a registry of abandoned residential real property and a registry of real property in danger of becoming abandoned; and providing other matters properly related thereto.

**Legislative Counsel's Digest:**

Existing law provides for a trustee under a deed of trust to exercise a power of sale on real property after a breach of an obligation or payment of debt secured by the deed of trust. (NRS 107.080) This bill establishes an expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

**Section 2** of this bill establishes the criteria to be used to determine whether real property constitutes abandoned residential property. **Section 4** of this bill authorizes a beneficiary of a deed of trust to elect to use an expedited procedure for the exercise of the trustee's power of sale if: (1) after an investigation of the property, the beneficiary determines that the property is abandoned residential property; and (2) the beneficiary receives a certification that the property is abandoned residential property from an agency or contractor designated by the county or city in which the property is located. Under **section 4**, each county and city must designate an agency or contractor to provide certifications that property is abandoned residential property, and that agency or contractor may charge the beneficiary a fee of not more than ~~(\$50)~~ \$300 to provide such certifications. To elect to use the expedited procedure, the beneficiary must include with the notice of default and election to sell the certification of the agency or contractor designated by the county or city and an affidavit setting forth the circumstances and

conditions supporting the determination that the property is abandoned residential property. If the certification and affidavit are included with the notice of default and election to sell: (1) **section 5** of this bill authorizes a notice of the sale of the property to be recorded not less than 60 days, rather than 3 months, after the recording of the notice of default and election to sell; and (2) **section 6** of this bill provides that the requirements relating to the Foreclosure Mediation Program are inapplicable and that the trustee may exercise the power of sale by obtaining a certificate from the Mediation Administrator.

Under **section 4**, if the trustee's sale is not conducted within 6 months, unless the trustee's sale is tolled under certain circumstances, after receipt of a certification from the agency or contractor designated by the county or city: (1) the notice of default and election to sell and the affidavit and certification to elect the expedited procedure are deemed to be withdrawn; and (2) the beneficiary is liable to the grantor or the successor in interest of the grantor for a civil penalty of not more than \$500. **Section 4** further authorizes a grantor of a deed of trust or his or her successor in interest to record an affidavit stating that the property is not abandoned residential property and, if such an affidavit is recorded before the trustee's sale of the property, the notice of default and election to sell and the affidavit and certification to elect the expedited sale procedure are deemed to be withdrawn.

**Section 3** of this bill: (1) authorizes a board of county commissioners or the governing body of an incorporated city to establish a registry of abandoned residential property and a registry of real property that is in danger of becoming abandoned residential property; and (2) requires the affidavit and certification required to elect the expedited sale procedure to be submitted to the entity maintaining the registry of abandoned residential property for the jurisdiction in which the property is located.

**Section 7** of this bill provides that this bill expires by limitation on June 30, 2017, and thus, the authorization to use the expedited procedure for the exercise of the trustee's power of sale expires on that date.

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

**Section 1.** Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2.** *As used in this section and NRS 107.080 to 107.110, inclusive, and sections 3 and 4 of this act, unless the context otherwise requires:*

**1.** *"Abandoned residential property" means residential real property:*

*(a) Consisting of not more than four family dwelling units or 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; and*

*(b) That the grantor or the successor in interest of the grantor has surrendered as evidenced by a document signed by the grantor or successor confirming the surrender or by the delivery of the keys to the property to the beneficiary or that satisfies the following conditions:*

*(1) The residential real property is not currently occupied as a principal residence by the grantor of the deed of trust, the person who holds title of record or any lawful occupant;*

*(2) The obligation secured by the deed of trust is in default and the deficiency in performance or payment has not been cured;*

*(3) The gas, electric and water utility services to the residential real property have been terminated;*

*(4) It appears, after reasonable inquiry, that there are no children enrolled in school residing at the address of the residential real property;*

*(5) Payments pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits, payments for unemployment compensation or payments for public assistance, as defined in NRS 422.050 and 422A.065, are not currently being delivered, electronically or otherwise, to a person who has registered the address of the residential real property as his or her residence with the agency making the payment;*

*(6) An owner of the residential real property is not presently serving in the Armed Forces of the United States, a reserve component thereof or the National Guard; and*

*(7) Two or more of the following conditions exist:*

*(I) Construction was initiated on the residential real property and was discontinued before completion, leaving a building unsuitable for occupancy, and no construction has taken place for at least 6 months;*

*(II) Multiple windows on the residential real property are boarded up or closed off or are smashed through, broken off or unhinged, or multiple window panes are broken and unrepaired;*

*(III) Doors on the residential real property are smashed through, broken off, unhinged or continuously unlocked;*

*(IV) The residential real property has been stripped of copper or other materials, or interior fixtures to the property have been removed;*

*(V) Law enforcement officials have received at least one report of trespassing or vandalism or other illegal acts being committed at the residential real property within the immediately preceding 6 months;*

(VI) *The residential real property has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by a municipal or county authority or a court of competent jurisdiction;*

(VII) *The local police, fire or code enforcement authority has requested that the owner or any other interested or authorized party secure the residential real property because the local authority has declared the property to be an imminent danger to the health, safety and welfare of the public; or*

(VIII) *The residential real property is open and unprotected and in reasonable danger of significant damage resulting from exposure to the elements or vandalism.*

2. *The term does not include residential real property if:*

(a) *There is construction, renovation or rehabilitation on the residential real property that is proceeding diligently to completion, and any building being constructed, renovated or rehabilitated on the property is in substantial compliance with all applicable ordinances, codes, regulations and laws;*

(b) *The residential real property is occupied on a seasonal basis, but is otherwise secure;*

(c) *There are bona fide rental or sale signs on the residential real property, or the property is listed on a Multiple Listing Service, and the property is secure; or*

(d) *The residential real property is secure but is the subject of a probate action, action to quiet title or any other ownership dispute.*

Sec. 3. 1. *A board of county commissioners or the governing body of an incorporated city may establish by ordinance:*

(a) *A registry of abandoned residential property that contains information concerning abandoned residential property located in the county or city.*

(b) *A registry of residential property located in the county or city that may be in danger of becoming abandoned residential property.*

2. *If a beneficiary of a deed of trust, the successor in interest of the beneficiary or the trustee includes with a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 the affidavit and certification described in subsection 6 of section 4 of this act and the county or city in which the abandoned residential property is located has established a registry of abandoned residential property, the beneficiary or its successor in interest or the trustee must submit a copy of the affidavit and certification to the entity maintaining the registry for the county or city in which the abandoned residential property is located.*

3. If a beneficiary of a deed of trust, the successor in interest of the beneficiary or the trustee receives a copy of the affidavit described in subsection 7 of section 4 of this act, the beneficiary or its successor in interest or the trustee must notify the entity maintaining the registry for the county or city in which the property described in the affidavit is located. Upon receiving such a notification, the entity maintaining the registry must remove the property from the registry.

4. If a property which has been removed from a registry established pursuant to this section subsequently becomes abandoned residential property or in danger of becoming abandoned residential property, the property may be added to the applicable registry in accordance with this section or the requirements established for the registry by the board of county commissioners or the governing body of an incorporated city.

Sec. 4. 1. A beneficiary may elect to use an expedited procedure for the exercise of the trustee's power of sale pursuant to NRS 107.080 if, after an investigation, the beneficiary:

(a) Determines that real property is abandoned residential property; and  
 (b) Receives from the applicable governmental entity a certification pursuant to subsection 4.

2. Each board of county commissioners of a county and each governing body of an incorporated city shall designate an agency or a contractor to inspect real property upon receipt of a request pursuant to paragraph (b) of subsection 3 and to provide certifications that real property is abandoned residential property pursuant to subsection 4.

3. If a beneficiary has a reasonable belief that real property may be abandoned residential property, the beneficiary or its agent:

(a) May enter the real property, but may not enter any dwelling or structure, to investigate whether the real property is abandoned residential property. Notwithstanding any other provision of law, a beneficiary and its agents who enter real property pursuant to this ~~subsection~~ paragraph are not liable for trespass.

(b) May request a certification pursuant to subsection 4 from the agency or contractor designated by the applicable governmental entity pursuant to subsection 2.

4. Upon receipt of a request pursuant to paragraph (b) of subsection 3, the agency or contractor designated by the applicable governmental entity shall inspect the real property ~~to~~ to determine the existence of two or more conditions pursuant to subparagraph (7) of paragraph (b) of subsection 1 of section 2 of this act. The ~~agency~~ designee and any ~~of its~~ employees of the designee may enter the real property, but may not enter any dwelling or structure, to perform an inspection pursuant to this subsection, and the ~~agency~~ designee and any ~~of its~~ employees who enter real property

*pursuant to this subsection are not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, or for trespass. If the ~~agency~~ designee or an employee of the ~~agency~~ designee determines that the real property is abandoned residential property, the ~~agency~~ designee shall serve a notice by first-class mail to the grantor or the successor in interest of the grantor and by posting the notice on the front door of the residence. The notice must provide that unless a lawful occupant of the real property contacts the ~~agency~~ designee within 30 days after service of the notice, the ~~agency~~ designee will issue a certification that the real property is abandoned residential property and that the beneficiary may use the certification to seek an expedited procedure for the exercise of the trustee's power of sale. If a grantor or the successor in interest of the grantor or a lawful occupant of the real property fails to contact the ~~agency~~ designee within 30 days after service of the notice, the ~~agency~~ designee shall provide to the beneficiary a certification that the real property is abandoned residential property. The certification required by this subsection must:*

*(a) Be signed and verified by the designee or the employee or employees of the ~~agency~~ designee who inspected the real property;*

*(b) State that, upon information and belief of the ~~agency~~ designee, after investigation by the designee or the employee or employees of the ~~agency~~ designee, the real property is abandoned residential property; and*

*(c) State the conditions or circumstances supporting the determination that the property is abandoned residential property. Documentary evidence in support of such conditions or circumstances must be attached to the certification.*

*5. For an inspection, service of notice and issuance of a certification pursuant to subsection 4, the agency or contractor designated pursuant to subsection 2 by the applicable governmental entity may charge and receive from the beneficiary a fee of not more than ~~[\$50.] \$300.~~*

*6. A beneficiary who elects to use an expedited procedure for the exercise of the trustee's power of sale pursuant to NRS 107.080 must include, or cause to be included, with the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 an affidavit setting forth the facts supporting the determination that the real property is abandoned residential property and the certification provided to the beneficiary pursuant to subsection 4. The affidavit required by this subsection must:*

*(a) Be signed and verified by the beneficiary;*

*(b) State that, upon information and belief of the beneficiary after investigation by the beneficiary or its agent, the property is abandoned residential property; and*



(c) *State the conditions or circumstances supporting the determination that the property is abandoned residential property. ~~[Photographic or other documentary]~~ Documentary evidence in support of such conditions or circumstances must be attached to the affidavit.*

7. *If the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes the affidavit and certification described in subsection 6, before the sale, the grantor or a successor in interest of the grantor may record in the office of the county recorder in the county where the real property is located an affidavit stating that the real property is not abandoned residential property, unless the grantor or the successor in interest of the grantor has surrendered the property as evidenced by a document signed by the grantor or successor confirming the surrender or by the delivery of the keys to the real property to the beneficiary. Upon the recording of such an affidavit:*

(a) *The grantor or the successor in interest must mail by registered or certified mail, return receipt requested, to the beneficiary and the trustee a copy of the affidavit; and*

(b) *The notice of default and election to sell and the affidavit and certification described in subsection 6 are deemed to be withdrawn.*

8. *If the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes the affidavit and certification described in subsection 6, the trustee's sale of the abandoned residential property must be conducted within 6 months after the beneficiary received the certification. If the trustee's sale is not conducted within 6 months after the beneficiary received the certification:*

(a) *The notice of default and election to sell and the affidavit and certification described in subsection 6 are deemed to be withdrawn; and*

(b) *The beneficiary is liable to the grantor or the successor in interest of the grantor for a civil penalty of not more than \$500.*

9. *The period specified in subsection 8 is tolled:*

(a) *If a borrower has filed a case under 11 U.S.C. Chapter 7, 11, 12 or 13, until the bankruptcy court enters an order closing or dismissing the bankruptcy case or granting relief from a stay of the trustee's sale.*

(b) *If a court issues a stay or enjoins the trustee's sale, until the court issues an order granting relief from the stay or dissolving the injunction.*

10. *As used in this section:*

(a) *"Applicable governmental entity" means:*

(1) *If the real property is within the boundaries of a city, the governing body of the city; and*

(2) *If the real property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.*

*(b) “Beneficiary” means the beneficiary of the deed of trust or the successor in interest of the beneficiary or any person designated or authorized to act on behalf of the beneficiary or its successor in interest.*

**Sec. 5.** NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210, 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment.

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale stating, based on personal knowledge and under the penalty of perjury:

(1) The full name and business address of the trustee or the trustee’s personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the servicers of the obligation or debt secured by the deed of trust;

(2) The full name and last known business address of every prior known beneficiary of the deed of trust;

(3) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust;

(4) That the trustee has the authority to exercise the power of sale with respect to the property pursuant to the instruction of the beneficiary of record and the current holder of the note secured by the deed of trust;

(5) The amount in default, the principal amount of the obligation or debt secured by the deed of trust, a good faith estimate of all fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale; and

(6) The date, recordation number or other unique designation of the instrument that conveyed the interest of each beneficiary and a description of the instrument that conveyed the interest of each beneficiary.

↪ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) Not less than 3 months have elapsed after the recording of the notice ~~[-]~~ *or, if the notice includes an affidavit and a certification indicating that, pursuant to section 4 of this act, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, not less than 60 days have elapsed after the recording of the notice.*

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and

any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; ~~and~~

(b) ***If, pursuant to section 4 of this act, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, include the affidavit and certification required by subsection 6 of section 4 of this act; and***

(c) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the ~~{3-month}~~ ***applicable*** period ***specified in paragraph (d) of subsection 2*** following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in the county where the property is situated;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,

↳ unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

9. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 9, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 9 and for reasonable attorney's fees and the costs of bringing the action.

11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$45 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

(c) A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

12. The fees collected pursuant to paragraphs (a) and (b) of subsection 11 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account for Foreclosure Mediation as prescribed pursuant to subsection 11. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in subsection 11.

13. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 11.

14. As used in this section:

(a) "Residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this paragraph, "single family residence":

(1) Means a structure that is comprised of not more than four units.

(2) Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(b) "Trustee" means the trustee of record.

**Sec. 6.** NRS 107.086 is hereby amended to read as follows:

107.086 1. ~~It~~ ***Except as otherwise provided in this subsection, in addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to section 4 of this act, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.***

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record has the right to seek mediation pursuant to this section; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.



5. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

8. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of

the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

12. As used in this section:

(a) “Mediation Administrator” means the entity so designated pursuant to subsection 8.

(b) “Noncommercial lender” means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) “Owner-occupied housing” means housing that is occupied by an owner as the owner’s primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

**Sec. 6.5. Nothing in this act shall be construed to limit the ability of a county or city to enforce any existing ordinance relating to abandoned property.**

**Sec. 7.** This act becomes effective on July 1, 2013, and expires by limitation on June 30, 2017.

Assemblyman Frierson moved the adoption of the amendment.

Remarks by Assemblyman Frierson.

Amendment adopted.

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

Senate Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 698.

AN ACT relating to autonomous vehicles; requiring an autonomous vehicle that is being tested on a highway within this State to meet certain conditions relating to a human operator; prohibiting an autonomous vehicle from being registered in this State, or tested or operated on a highway within

this State, unless it meets certain conditions; providing that the manufacturer of a motor vehicle that has been converted to be an autonomous vehicle by a third party is immune from liability for certain injuries in certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Department of Motor Vehicles to adopt regulations authorizing the operation of autonomous vehicles on highways within the State of Nevada. (NRS 482A.100) **Sections 2 and 7** of this bill exclude a vehicle that contains certain systems for assisting the driver from being an autonomous vehicle unless the combined effect of all such systems is to enable the vehicle to be driven without the active control or monitoring of a human operator. **Section 2.5** of this bill requires a person or entity to submit to the Department proof of insurance or other proof of financial responsibility, in the amount of \$5,000,000, before testing an autonomous vehicle on a highway within this State. **Section 3** of this bill requires an autonomous vehicle that is being tested on a highway within this State to have a human operator who is seated in the driver's seat, monitoring the safe operation of the vehicle and capable of taking over control of the vehicle in an emergency. **Section 4** of this bill prohibits an autonomous vehicle from being registered in this State unless it meets federal standards and regulations. **Section 4** also prohibits an autonomous vehicle from being tested or operated on a highway within this State unless it is equipped with certain equipment to ensure its safe operation and can be operated in compliance with the motor vehicle and traffic laws of this State. **Section 5** of this bill provides that the manufacturer of a motor vehicle that has been converted to an autonomous vehicle by a third party is not liable for an injury that results from that conversion unless the defect that caused the injury was present in the vehicle as originally manufactured.

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

**Section 1.** Chapter 482A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

**Sec. 2.** *"Autonomous technology" means technology which is installed on a motor vehicle and which has the capability to drive the motor vehicle without the active control or monitoring of a human operator. The term does not include an active safety system or a system for driver assistance, including, without limitation, a system to provide electronic blind spot detection, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keeping assistance, lane departure warning, or traffic jam and queuing assistance, unless any such system, alone or in combination with any other system, enables the vehicle on which the*

*system is installed to be driven without the active control or monitoring of a human operator.*

*Sec. 2.5. Before a person or entity begins testing an autonomous vehicle on a highway within this State, the person or entity must:*

- 1. Submit to the Department proof of insurance or self-insurance acceptable to the Department in the amount of \$5,000,000; or*
- 2. Make a cash deposit or post and maintain a surety bond or other acceptable form of security with the Department in the amount of \$5,000,000.*

*Sec. 3. If an autonomous vehicle is being tested on a highway within this State, a human operator must be:*

- 1. Seated in a position which allows the human operator to take immediate manual control of the autonomous vehicle;*
- 2. Monitoring the safe operation of the autonomous vehicle; and*
- 3. Capable of taking over immediate manual control of the autonomous vehicle in the event of a failure of the autonomous technology or other emergency.*

*Sec. 4. 1. An autonomous vehicle shall not be registered in this State unless the autonomous vehicle meets all federal standards and regulations that are applicable to a motor vehicle.*

*2. An autonomous vehicle shall not be tested or operated on a highway within this State unless the autonomous vehicle is:*

*(a) Equipped with a means to engage and disengage the autonomous technology which is easily accessible to the human operator of the autonomous vehicle;*

*(b) Equipped with a visual indicator located inside the autonomous vehicle which indicates when autonomous technology is operating the autonomous vehicle;*

*(c) Equipped with a means to alert the human operator to take manual control of the autonomous vehicle if a failure of the autonomous technology has been detected and such failure affects the ability of the autonomous technology to operate safely the autonomous vehicle; and*

*(d) Capable of being operated in compliance with the applicable motor vehicle laws and traffic laws of this State.*

*Sec. 5. The manufacturer of a motor vehicle that has been converted by a third party into an autonomous vehicle is not liable for damages to any person injured due to a defect caused by the conversion of the motor vehicle or by any equipment installed to facilitate the conversion unless the defect that caused the injury was present in the vehicle as originally manufactured.*

**Sec. 6.** NRS 482A.010 is hereby amended to read as follows:

482A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~[482A.020 to 482A.050, inclusive,]~~ **482A.030 and 482A.040 and section 2 of this act** have the meanings ascribed to them in those sections.

**Sec. 7.** NRS 482A.030 is hereby amended to read as follows:

482A.030 “Autonomous vehicle” means a motor vehicle that ~~uses artificial intelligence, sensors and global positioning system coordinates to drive itself without the active intervention of a human operator.~~ **is equipped with autonomous technology.**

~~**Sec. 8.** NRS 482A.200 is hereby amended to read as follows:~~

~~482A.200 The Department shall by regulation establish a driver’s license endorsement for the operation of an autonomous vehicle on the highways of this State. The driver’s license endorsement described in this section must, in its restrictions or lack thereof, recognize the fact that a person is not required to actively drive an autonomous vehicle [.] , **except in case of emergency.**~~  
**(Deleted by amendment.)**

**Sec. 9.** NRS 482A.020 and 482A.050 are hereby repealed.

**Sec. 10.** This act becomes effective on July 1, 2013.

#### TEXT OF REPEALED SECTIONS

**482A.020 “Artificial intelligence” defined.** “Artificial intelligence” means the use of computers and related equipment to enable a machine to duplicate or mimic the behavior of human beings.

**482A.050 “Sensors” defined.** “Sensors” includes, without limitation, cameras, lasers and radar.

Assemblyman Carrillo moved the adoption of the amendment.

Remarks by Assemblyman Carrillo.

Amendment adopted.

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

Senate Bill No. 428.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 703.

AN ACT relating to tow cars; requiring operators of tow cars to accept certain forms of payment; and providing other matters properly relating thereto.

#### Legislative Counsel’s Digest:

Existing law governs the authority of the Nevada Transportation Authority to set the rate for services provided by operators of tow cars. (NRS 706.445-

706.451) **Section 2** of this bill provides that operators of tow cars are required to accept cash, money ~~order,~~ **orders,** credit ~~card or~~ **cards,** debit ~~card or~~ **cards and** any ~~other~~ electronic transfer of money as payment for towing services. **Section 3** of this bill authorizes an operator of a tow car to enter into ~~a contract~~ **contracts** with ~~an issuer~~ **issuers** of credit cards ~~for~~ **and** debit cards to provide for the acceptance of such cards by the operator of a tow car for the payment of rates, taxes and charges. **Section 3** also authorizes ~~the Authority to prescribe by regulation or order the maximum fee that~~ an operator of a tow car ~~may charge~~ **to offer** a customer **a discount** for ~~using a credit card or debit card to make~~ **making** payment ~~in~~ **in cash.**

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

**Section 1.** Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2.** *An operator of a tow car shall accept cash, money ~~order,~~ orders, credit ~~card or~~ cards, debit ~~card or~~ cards and any ~~other~~ electronic transfer of money as payment for towing services. As used in this section, “electronic transfer of money” has the meaning ascribed to it in NRS 463.01473.*

**Sec. 3. 1.** *An operator of a tow car may enter into ~~a contract~~ contracts with ~~an issuer~~ issuers of credit cards ~~for~~ and debit cards to provide for the acceptance of credit cards ~~for~~ and debit cards by the operator of a tow car for the payment of rates, fares and charges owed to the operator of a tow car.*

**2.** *The Authority may ~~prescribe by regulation or order the maximum fee that an operator of a tow car may charge a customer for the convenience of using a credit card or debit card to make payment to the operator of a tow car. In prescribing such fees, the Authority may~~, as part of its investigation or review of any rates, fares or charges of a tow car operator that are subject to the approval of the Authority, consider the expenses incurred by the operator of a tow car in accepting payment by a credit card or debit card, including, without limitation:*

- (a) Costs of required equipment and its installation;*
- (b) Administrative costs of processing credit card or debit card transactions; and*
- (c) Fees paid to issuers of credit cards or debit cards.*

**3.** *An ~~issuer shall not, by contract or otherwise,~~*  
~~*(a) Prohibit an* operator of a tow car ~~from charging and collecting a fee authorized pursuant to subsection 2, or~~~~

~~(b) Require an operator of a tow car to waive the right to charge and collect a fee authorized pursuant to subsection 2.] may offer a discount to a customer for payment in cash of any rate, fare or charge.~~

4. As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

- (a) Issues a credit card or debit card; or
- (b) Enters into a contract with an operator of a tow car or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person, that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, *and sections 2 and 3 of this act* have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

↳ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

Sec. 6. (Deleted by amendment.)

**Sec. 7.** NRS 706.4463 is hereby amended to read as follows:

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before the operator provides any services other than those services which the operator provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive ~~{-}~~, **and sections 2 and 3 of this act.**

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car must file an application with the Authority.

3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

(b) Complies with the requirements of the regulations adopted by the Authority pursuant to the provisions of this chapter;

(c) Has provided evidence that the applicant has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the applicant has filed with the Authority schedules and tariffs pursuant to subsection 2 of NRS 706.321.

4. An applicant for a certificate has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 3.

5. The Authority may hold a hearing to determine whether an applicant is entitled to a certificate only if:

(a) Upon the expiration of the time fixed in the notice that an application for a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 3.

**Sec. 7.5.** NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the



operator of the tow car shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than 15 days after placing any other vehicle in storage:

- (1) Of the location where the motor vehicle is being stored;
- (2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;
- (3) Of the charge for towing and storage;
- (4) Of the date and time the vehicle was placed in storage;
- (5) Of the actions that the registered and legal owner of the vehicle may take to recover the vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges; and
- (6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

- (1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or
- (2) Fifteen days after placing any other motor vehicle in storage.

↪ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in the operator's tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,  
↪ unless the operator complies with the requirements set forth in subsection 1.

3. If a motor vehicle that is placed in storage was towed at the request of a law enforcement officer following an accident involving the motor vehicle ~~is~~ *or after having been stolen and subsequently recovered*, the operator shall not:

(a) Satisfy any lien or impose any administrative fee or processing fee with respect to the motor vehicle for the period ending 4 business days after the date on which the motor vehicle was placed in storage; or

(b) Impose any fee relating to the auction of the motor vehicle until after the operator complies with the notice requirements set forth in NRS 108.265 to 108.367, inclusive.

**Sec. 8.** NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, **and sections 2 and 3 of this act.**

2. In addition to any other remedies that may be available to the Authority to act upon complaints, the Authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the Authority determines to be appropriate.

**Sec. 9.** NRS 706.453 is hereby amended to read as follows:

706.453 The provisions of NRS 706.445 to 706.451, inclusive, **and sections 2 and 3 of this act** do not apply to automobile wreckers who are licensed pursuant to chapter 487 of NRS.

**Sec. 10.** NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, **and sections 2 and 3 of this act** do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

**Sec. 11.** NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~and~~, *and sections 2 and 3 of this act*;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~{}~~, **and sections 2 and 3 of this act;**

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~{}~~, **and sections 2 and 3 of this act;**

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

↪ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

↪ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person

may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

**Sec. 12.** NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act** for the prevention and punishment of any violation of the provisions thereof and of all orders of the Authority or the Department, the Authority or the Department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act** and with the orders of the Authority or the Department by proceedings in mandamus, injunction or by other civil remedies.

**Sec. 13.** NRS 706.791 is hereby amended to read as follows:

706.791 1. If the Department is not satisfied with the records or statements of, or with the amount of fees paid by, any person pursuant to the provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act**, it may make an additional or estimated assessment of fees due from that person based upon any information available to it.

2. Every additional or estimated assessment bears interest at the rate of 1 percent per month, or fraction thereof, from the date the fees were due until they are paid.

3. If an assessment is imposed, a penalty of 10 percent of the amount of the assessment must be added thereto. If any part of the deficiency is found to be caused by fraud or an intent to evade the provisions of this chapter or the regulations adopted pursuant to this chapter, a penalty of 25 percent of the amount of the assessment must be added thereto.

4. The Department shall give the person written notice of the assessment. The notice may be served personally or by mail in the manner prescribed by Rule 5 of the Nevada Rules of Civil Procedure addressed to the person at the person's address as it appears in the records of the Department. Every notice of assessment must be served within 36 months after the end of the registration year for which the additional assessment is imposed.

5. If any person refuses or fails to make available to the Department, upon request, such records, reports or other information as determined by the Department to be necessary to enable it to determine that the amount of taxes and fees paid by that person is correct, the assessment made pursuant to the provisions of this section is presumed to be correct and the burden is upon the person challenging the assessment to establish that it is erroneous.

6. Any person against whom an assessment has been made pursuant to the provisions of this section may petition the Department in writing for a redetermination within 30 days after service of the notice. If a petition is not filed with the Department within that period, the assessment becomes final.

7. If a petition for redetermination is filed within 30 days, the Department shall reconsider the assessment and send the petitioner, by certified mail, notice of its decision and the reasons therefor. A petitioner aggrieved by the Department's decision may appeal the decision by submitting a written request to the Department for a hearing not later than 30 days after notice of the decision was mailed by the Department. The Department shall schedule an administrative hearing and provide the petitioner with 10 days' notice of the time and place of the hearing. The Department may continue the hearing as may be necessary.

8. The order of the Department upon a petition becomes final 30 days after service of notice thereof. If an assessment is not paid on or before the date it becomes final, there must be added thereto in addition to any other penalty provided for in this chapter a penalty of 10 percent of the amount of the assessment.

9. Every remittance in payment of an assessment is payable to the Department.

Assemblyman Carrillo moved the adoption of the amendment.

Remarks by Assemblyman Carrillo.

Amendment adopted.

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

Senate Bill No. 429.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 702.

AN ACT relating to taxicabs; revising provisions relating to the authority of the Taxicab Authority to regulate the color scheme, insigne and design of the cruising lights of certain taxicabs; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, a person must be a holder of a certificate of public convenience and necessity to operate a taxicab business. (NRS 706.386, 706.473, 706.8827) In counties whose population is less than 700,000 (currently all counties other than Clark County), the certificates are issued by the Nevada Transportation Authority, and in counties whose population is 700,000 or more (currently Clark County), the certificates are issued by the Taxicab Authority. (NRS 706.386, 706.881, 706.8827) Existing law requires the Taxicab Authority to: (1) approve or disapprove the color scheme, insigne and design of the cruising lights of taxicabs of a certificate holder in any county; and (2) ensure that the color scheme, insigne and design of the cruising lights of one certificate holder are readily distinguishable from those of another certificate holder operating in the same county. (NRS 706.8833, NAC 706.486) Existing law also requires that certain information about a taxicab's fare schedule **and the name of the certificate holder** be displayed on each taxicab. (NRS 706.8835) ~~[This bill eliminates the requirement that the Taxicab Authority approve or disapprove the color scheme on the taxicabs of a particular certificate holder.]~~ This bill ~~[also]~~ requires the Taxicab Authority to allow a certificate holder in any county to place advertisements on the exterior of the certificate holder's taxicabs, provided that the taxicabs bearing the advertisements are readily distinguishable from the taxicabs of other certificate holders operating in the same county **through the display of the name of the certificate holder on each side of each taxicab**, and that the taxicabs still display the fare schedule as required.

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

**Section 1.** NRS 706.8833 is hereby amended to read as follows:

706.8833 1. The color scheme, insigne and design of the cruising lights of each taxicab must conform to those approved for the certificate holder pursuant to regulations of the Authority.

2. ~~[The]~~ **Except as otherwise provided in subsection 3, the** Authority shall approve or disapprove the color scheme, insigne and design of the cruising lights of the taxicabs of a certificate holder in any county, and shall ensure that the color scheme and insigne of one certificate holder are ~~is~~ readily distinguishable from the color schemes and insignia of other certificate holders operating in the same county.

3. *The Authority shall allow a certificate holder in any county to place advertisements on the exterior of the vehicles used as taxicabs in the operations of the certificate holder, provided that the taxicabs of the certificate holder which bear such advertisements ~~are~~*

~~*(a) Are*~~ *are readily distinguishable from the taxicabs of other certificate holders operating in the same county ~~and~~*

~~*(b) Meet*~~ *by meeting the requirements of subsection 2 of NRS 706.8835.*

Assemblyman Carrillo moved the adoption of the amendment.

Remarks by Assemblyman Carrillo.

Amendment adopted.

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

Senate Bill No. 456.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 701.

AN ACT relating to tow cars; authorizing certain insurance companies to designate vehicle storage lots; requiring operators of tow cars to tow certain vehicles to designated vehicle storage lots under certain circumstances; revising certain provisions relating to operators of tow cars; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section ~~1~~ 3** of this bill authorizes an insurance company to designate certain vehicle storage lots to which certain vehicles insured by the insurance company must be towed under certain circumstances. **Section ~~1~~ 3** requires a law enforcement officer to make a good faith effort to determine the identity of the insurance company that provides coverage for the owner of such a vehicle and to make a good faith effort to communicate that information to the operator of the tow car before the vehicle is towed. **Section ~~1~~ 3** further provides that the amendatory provisions of this bill apply only to a county whose population is 700,000 or more (currently Clark County). **Section 2 of this bill expresses the sense of the Legislature that the provisions of section 3 constitute an exercise of the safety regulatory authority of this State with respect to motor vehicles.**

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

**Section 1.** Chapter 706 of NRS is hereby amended by adding thereto ~~a new section to read~~ **the provisions set forth as follows: sections 2 and 3 of this act.**



Sec. 2. The Legislature hereby finds and declares that:

1. Towing a vehicle, either after an accident or after the vehicle is stolen and subsequently recovered, to a vehicle storage lot designated by the insurer of the vehicle will result in the placement of vehicle storage lots in more locations, as insurance companies will designate as many vehicle storage lots as are necessary to provide coverage throughout the county, thus enhancing safety by limiting both the time and distance that a tow car is traveling with a towed vehicle.

2. Authorizing insurance companies to designate vehicle storage lots will enhance safety by ensuring that the vehicles towed thereto are stored in locations which:

- (a) Guarantee safe access to the vehicles by their owners; and
- (b) Protect the property of the owners of the vehicles, including, without limitation, the vehicles themselves.

3. The provisions of section 3 of this act constitute an exercise of the safety regulatory authority of this State with respect to motor vehicles.

Sec. 3. 1. An insurance company may designate ~~to~~ one or more vehicle storage ~~lot~~ lots to which all vehicles that are ~~inoperable because~~ towed at the request of a law enforcement officer:

- (a) Following an accident ; or ~~which have been recovered~~
- (b) Following recovery after having been stolen ,

↪ and which are insured by that insurance company must be towed pursuant to subsection 2. The designation of a vehicle storage lot must be provided in writing by the insurance company, its representative or the owner or operator of the vehicle storage lot to all providers of towing services that have obtained a certificate of public convenience and necessity and operate in the same geographical area in which the designated vehicle storage lot is situated.

2. If a law enforcement officer requests that an operator of a tow car tow a vehicle ~~that is inoperable because of~~ following an accident or ~~which was recovered~~ following recovery after having been stolen and the vehicle is not otherwise subject to impoundment, the law enforcement officer shall make a good faith effort to determine the identity of the insurance company that provides coverage for the owner of the vehicle. If the law enforcement officer determines the identity of the insurance company, he or she shall inform the operator of the tow car of the identity of the insurance company. If the operator of the tow car:

- (a) Is informed by a law enforcement officer of the identity of the insurance company that provides coverage for the owner of the vehicle; or
- (b) Otherwise determines the identity of the insurance company that provides coverage for the owner of the vehicle,

↪ and the insurance company has designated a vehicle storage lot pursuant to subsection 1, the operator of the tow car shall tow the vehicle to the designated vehicle storage lot unless the owner of the vehicle or a representative of the insurance company has directed otherwise.

3. If an operator of a tow car fails to tow a vehicle to the designated vehicle storage lot pursuant to subsection 2, the operator of the tow car shall:

(a) Forfeit the charge for towing and storage of the vehicle; and

(b) Tow the vehicle free of charge to the vehicle storage lot designated by the insurance company or its representative not later than 24 hours after receiving a demand, which must be made in writing or by electronic mail, from the insurance company or its representative.

4. The owners of a vehicle storage lot designated by an insurance company pursuant to subsection 1 shall agree in writing to indemnify the relevant law enforcement agencies and their officers, employees, agents and representatives from any liability relating to the towing of a vehicle insured by the designating insurance company and to the storing of the vehicle at the vehicle storage lot if the law enforcement officer who requested the towing of the vehicle made a good faith effort to comply with the provisions of subsection 2.

5. A vehicle storage lot must:

(a) ~~Except as otherwise provided in subsection 6, comply~~ Maintain adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed to the vehicle storage lot;

(b) Comply with all ~~applicable requirements imposed~~ standards a law enforcement agency may adopt pursuant to NRS 706.4485 ~~for an operator of a tow car;~~

~~(b)~~ to protect the health, safety and welfare of the public;

(c) Comply with all ~~applicable~~ local laws and ordinances ~~that~~ applicable to that business, including, without limitation, local laws and ordinances relating to business licenses, zoning, building and fire codes, parking, paving, lights and security; and

~~(c)~~ (d) If the vehicle storage lot is a salvage pool as that term is defined in NRS 487.400, comply with all applicable requirements imposed pursuant to NRS 487.400 to 487.510, inclusive.

6. ~~(A)~~ If a vehicle storage lot has rates and charges that have been approved by the Authority for the storage of a vehicle, the vehicle storage lot is not required to assess ~~the~~ those rates and charges ~~that have been approved by the Authority~~ for the storage of a vehicle ~~that~~ that is towed to the vehicle storage lot in accordance with this section, but may not assess a rate or charge in excess of those approved rates and charges. If a vehicle storage lot does not have rates and charges that have been approved by the

Authority, it may not assess a rate or charge in excess of the rates and charges for the storage of a vehicle that have been approved by the law enforcement agency that requested the tow. If the requesting law enforcement agency does not have approved rates and charges, the vehicle storage lot may not assess a rate or charge in excess of the rates and charges for the storage of a vehicle that have been approved by the largest law enforcement agency in the county. An operator of a tow car who tows a vehicle to a vehicle storage lot pursuant to this section:

(a) Shall assess the rates and charges approved by the Authority for towing the vehicle.

(b) Is entitled to payment from the operator of the vehicle storage lot at the time the vehicle is towed to the vehicle storage lot.

7. Before designating a vehicle storage lot pursuant to subsection 1, an insurance company must obtain the approval of the Authority. The Authority shall approve the designation if the Authority determines that the vehicle storage lot has:

(a) Executed an indemnification agreement that meets the requirements of subsection 4;

(b) Satisfied the requirements of subsection 5; and

(c) Otherwise satisfied the requirements of this section.

8. The provisions of this section apply only to a county whose population is 700,000 or more.

9. As used in this section:

(a) "Boat" means any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) "Vehicle" has the meaning ascribed to it in NRS 706.146 and includes all terrain vehicles and boats.

(c) "Vehicle storage lot" means a business which, for a fee, stores vehicles that are ~~inoperable because of~~ towed at the request of a law enforcement officer following an accident ~~and which have been recovered~~ or following recovery after having been stolen and includes, without limitation, a salvage pool, as that term is defined in NRS 487.400 ~~[-], which operates a vehicle storage lot in accordance with the provisions of this section. The term does not include a salvage pool that has not elected to operate a vehicle storage lot in accordance with the provisions of this section and is operating within the scope of its authority pursuant to NRS 487.400 to 487.510, inclusive.~~

~~[Sec. 2.]~~ Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ~~and [section 1]~~ sections 2 and 3 of this act, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

~~[Sec. 3.]~~ **Sec. 5.** NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, **and ~~section 11~~ sections 2 and 3 of this act** do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.
2. Any state or a political subdivision thereof.

~~[Sec. 4.]~~ **Sec. 6.** NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate:

(a) Every fully regulated carrier and broker of regulated services in this State in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and along the highways.

(b) Every operator of a tow car concerning the rates and charges assessed for towing services performed without the prior consent of the operator of the vehicle or the person authorized by the owner to operate the vehicle and pursuant to the provisions of NRS 706.011 to 706.791, inclusive ~~[ ]~~, **and ~~section 11~~ sections 2 and 3 of this act**.

2. Supervise and regulate the storage of household goods and effects in warehouses and the operation and maintenance of such warehouses in accordance with the provisions of this chapter and chapter 712 of NRS.

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the Authority or the Department by:

- (a) Providing training in safety;
- (b) Reviewing and observing the programs or inspections of the carrier relating to safety; and
- (c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers or two or more operators of tow cars relating to:

- (a) Fares of fully regulated carriers;
- (b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;
- (c) Classifications;
- (d) Divisions;
- (e) Allowances; and

(f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

↪ These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

5. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.

~~{Sec. 5.}~~ **Sec. 7.** NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person, that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, *and section ~~4~~ 3 of this act* have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

↪ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

~~{Sec. 6.}~~ **Sec. 8.** NRS 706.321 is hereby amended to read as follows:

706.321 1. Except as otherwise provided in subsection 2, every common or contract motor carrier shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates, fares and charges which the carrier has established and which are in force at the time of filing for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations of the carrier that in any manner affect the rates or fares charged or to be charged for any service and all regulations of the carrier that the carrier has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, **and section ~~[-]~~ 3 of this act.**

2. Every operator of a tow car shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates and charges for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which the operator has established and which are in force at the time of filing.

(b) As a part of that schedule, all regulations of the operator of the tow car which in any manner affect the rates charged or to be charged for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle and all regulations of the operator of the tow car that the operator has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, **and section ~~[-]~~ 3 of this act.**

3. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the Authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The Authority, upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the Authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the Authority.

4. The Authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services filed pursuant to this section and, after hearing, by order, make such changes as may be just and reasonable.

5. The Authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service filed pursuant to this section.

6. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the Authority are in force, and are prima facie

lawful, from the date of the order until changed or modified by the Authority, or pursuant to NRS 706.2883.

7. All regulations, practices and service prescribed by the Authority must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, or until changed or modified by the Authority itself upon satisfactory showing made.

~~[Sec. 7.]~~ **Sec. 9.** NRS 706.4463 is hereby amended to read as follows:

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before the operator provides any services other than those services which the operator provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[ ]~~, **and section ~~44~~ 3 of this act.**

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car must file an application with the Authority.

3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

(b) Complies with the requirements of the regulations adopted by the Authority pursuant to the provisions of this chapter;

(c) Has provided evidence that the applicant has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the applicant has filed with the Authority schedules and tariffs pursuant to subsection 2 of NRS 706.321.

4. An applicant for a certificate has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 3.

5. The Authority may hold a hearing to determine whether an applicant is entitled to a certificate only if:

(a) Upon the expiration of the time fixed in the notice that an application for a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a

determination as to whether the applicant has complied with the requirements of subsection 3.

~~[Sec. 8.]~~ **Sec. 10.** NRS 706.4464 is hereby amended to read as follows:

706.4464 1. An operator of a tow car who is issued a certificate of public convenience and necessity may transfer it to another operator of a tow car qualified pursuant to the provisions of NRS 706.011 to 706.791, inclusive, **and section ~~##~~ 3 of this act**, but no such transfer is valid for any purpose until a joint application to make the transfer is made to the Authority by the transferor and the transferee, and the Authority has authorized the substitution of the transferee for the transferor. No transfer of stock of a corporate operator of a tow car subject to the jurisdiction of the Authority is valid without the prior approval of the Authority if the effect of the transfer would be to change the corporate control of the operator of a tow car or if a transfer of 15 percent or more of the common stock of the operator of a tow car is proposed.

2. The Authority shall approve an application filed with it pursuant to subsection 1 if it determines that the transferee:

(a) Complies with the provisions of NRS 706.011 to 706.791, inclusive, **and section ~~##~~ 3 of this act** and the regulations adopted by the Authority pursuant to those provisions;

(b) Uses equipment that is in compliance with the regulations adopted by the Authority;

(c) Has provided evidence that the transferee has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the transferee has filed with the Authority schedules and tariffs pursuant to NRS 706.321 which contain rates and charges and the terms and conditions that the operator of the tow car requires to perform towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which do not exceed the rates and charges that the transferor was authorized to assess for the same services.

3. The Authority may hold a hearing concerning an application submitted pursuant to this section only if:

(a) Upon the expiration of the time fixed in the notice that an application for transfer of a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a



determination as to whether the applicant has complied with the requirements of subsection 2.

4. The Authority shall not hold a hearing on an application submitted pursuant to this section if the application is made to transfer the certificate of public convenience and necessity from a natural person or partners to a corporation whose controlling stockholders will be substantially the same person or partners.

5. The approval by the Authority of an application for transfer of a certificate of public convenience and necessity of an operator of a tow car is not valid after the expiration of the term for the transferred certificate.

~~{Sec. 9.}~~ **Sec. 11.** NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~{ }~~, **and section ~~{#} 3 of this act.~~**

2. In addition to any other remedies that may be available to the Authority to act upon complaints, the Authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the Authority determines to be appropriate.

~~{Sec. 10.}~~ **Sec. 12.** NRS 706.4485 is hereby amended to read as follows:

706.4485 1. A law enforcement agency that maintains and uses a list of operators of tow cars which are called by that agency to provide towing shall not include an operator of a tow car on the list unless the operator:

(a) Holds a certificate of public convenience and necessity issued by the Authority.

(b) Complies with all applicable provisions of this chapter and chapters 482 and 484A to 484E, inclusive, of NRS.

(c) Agrees to respond in a timely manner to requests for towing made by the agency.

(d) Maintains adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed.

(e) Complies with all standards the law enforcement agency may adopt to protect the health, safety and welfare of the public.

(f) ~~{Assesses}~~ **Except as otherwise provided in section ~~{#} 3 of this act,~~ assesses** only rates and charges that have been approved by the Authority for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle.

2. The Authority shall not require that an operator of a tow car charge the same rate to law enforcement agencies for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the

owner to operate the vehicle that the operator charges to other persons for such services.

3. Except as otherwise provided in this subsection, if an operator of a tow car is included on a list of operators of tow cars that is maintained and used by the Nevada Highway Patrol pursuant to this section, the Nevada Highway Patrol shall not remove the operator of the tow car from the list, or restrict the operator's use pursuant thereto, solely on the ground that the operator is insured under the same policy of insurance as one other operator of a tow car who is included on the list and operates in the same geographical area. An operator of a tow car is not eligible for inclusion on the list if the operator is insured under the same policy of insurance as two or more other operators of tow cars who are included on the list and operate in the same geographical area.

~~[Sec. 11.]~~ *Sec. 13.* NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, *and section ~~##~~ 3 of this act*, for the prevention and punishment of any violation of the provisions thereof and of all orders of the Authority or the Department, the Authority or the Department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, *and section ~~##~~ 3 of this act*, and with the orders of the Authority or the Department by proceedings in mandamus, injunction or by other civil remedies.

~~[Sec. 12.]~~ *Sec. 14.* This act becomes effective upon passage and approval.

Assemblyman Carrillo moved the adoption of the amendment.

Remarks by Assemblyman Carrillo.

Amendment adopted.

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

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 447.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 804.

AN ACT relating to highways; revising provisions relating to the construction, operation and maintenance of certain facilities to provide information ~~[, services or products]~~ to the traveling public; increasing fines for certain violations committed in roadside parks or rest areas; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Director of the Department of Transportation to designate appropriate locations for the construction of certain roadside facilities and signs which provide information to members of the traveling public concerning accommodations, food, fuel and recreation. (NRS 408.551, 408.553) Existing law allows such facilities or signs to be erected or constructed and maintained by the Department or by a city, county or other governmental agency or private person, under contract with the Department. (NRS 408.553) Federal law newly authorizes a state to allow the installation of signs that acknowledge the sponsorship of a rest area, and to allow a private party to operate limited commercial activities at a rest area. (23 U.S.C. §§ 111, 131) **Section 3** of this bill allows the Director of the Department, with the approval of the Board of Directors of the Department, to authorize a private person to erect or construct, sponsor, operate or maintain a facility or a sign at a rest area, under contract with the Department. **Section 4** of this bill makes conforming changes to the authorization of the Department to adopt regulations regarding such facilities and signs. (NRS 408.557)

Existing law makes it unlawful for any person, firm, corporation, association or other entity, other than a public utility, to sell, exhibit or offer for sale certain goods and services or to erect, place, post or maintain certain signs in any roadside park or safety rest area in this State. A person who violates that provision, or any regulation adopted governing roadside parks or safety rest areas, shall be punished by a fine of not more than \$100 for a first offense and not more than \$500 for each subsequent offense. (NRS 408.433) **Section 1** of this bill raises the limit on a fine for a first such offense to not more than \$1,000, and for each subsequent offense to not more than \$5,000.

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

**Section 1.** NRS 408.433 is hereby amended to read as follows:

408.433 1. ~~It is~~ ***Except as otherwise provided in NRS 408.553, it*** is unlawful for any person, firm, corporation, association or other entity, other than a public utility, to:

(a) Sell, exhibit or offer for sale any goods, wares, products, merchandise or services; or

(b) Erect, place, post or maintain any sign, billboard, placard, notice or other form of advertising,

↳ in any roadside park or safety rest area in this state, or in the approaches thereto.

2. Any person who violates any provision of this section or any regulation adopted under this chapter governing roadside parks or safety rest

areas shall be punished by a fine of not more than ~~[\$100]~~ **\$1,000** for a first offense and not more than ~~[\$500]~~ **\$5,000** for each subsequent offense.

**Sec. 2.** NRS 408.551 is hereby amended to read as follows:

408.551 As used in NRS 408.551 to 408.567, inclusive, “center” means a facility , ***including, without limitation, a safety rest area,*** to provide information ~~[, services or products]~~ to members of the traveling public, concerning accommodations, food, fuel and recreation, through an attendant or some ***other*** means of communication.

**Sec. 3.** NRS 408.553 is hereby amended to read as follows:

408.553 **1.** The Director may designate appropriate locations for the construction of centers and the erection and maintenance of directional and informational signs within the right-of-way.

**2.** The signs or centers may be erected or constructed ~~[and]~~ , ***sponsored, operated or*** maintained by:

~~[1.]~~ **(a)** The Department; ~~[or~~

~~2.]~~ **(b)** A city, county or other governmental agency , ~~[or private person,]~~ under contract with the Department ~~[.]~~ ; ***or***

**(c)** ***A private person under contract with the Department, if the person has been authorized by the Director, with approval of the Board, to enter into such a contract.***

**Sec. 4.** NRS 408.557 is hereby amended to read as follows:

408.557 **1.** The Director shall adopt regulations:

(a) Governing the size, shape, lighting and other characteristics of a sign to be erected at a location designated pursuant to NRS 408.553;

(b) Authorizing the use of trademarks and symbols identifying an individual enterprise on a sign erected at the location;

(c) Fixing the qualifications of a person or governmental agency to ***erect or construct,*** operate , ***sponsor or maintain*** a center ***or sign*** and of an enterprise to be identified on a directional or informational sign;

(d) Fixing reasonable fees, based upon the market value as determined by the Department, for:

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and

(2) Providing ~~[information]~~ :

**(I)** ***Information*** ~~[, services or products]~~ concerning commercial attractions ; and ~~[services; and]~~

**(II)** ***Items designed to promote tourism in this State; and***

(e) Otherwise necessary to carry out the provisions of NRS 408.551 to 408.567, inclusive.

**2.** The regulations adopted by the Director pursuant to subsection 1 must be consistent with the provisions of 23 U.S.C. ~~[\\$]~~ §§ ***111 and*** 131.

**Sec. 5.** ~~[NRS 408.559 is hereby amended to read as follows:~~

~~408.559 The Department shall develop a plan, in cooperation with the Commission on Tourism, to carry out the provisions of NRS 408.551 to 408.567, inclusive. The plan must take into consideration such factors as:~~

- ~~1. Economic development in this state.~~
- ~~2. Availability of money for the purposes of NRS 408.551 to 408.567, inclusive.~~
- ~~3. Population in a particular area.~~
- ~~4. Proposed highway construction.~~
- ~~5. Need for information, [.] *services or products*.~~

~~↪ The Department and the Commission shall review the plan at least once each year and revise it until the provisions of NRS 408.551 to 408.567, inclusive, have been uniformly put into effect throughout the State.] **(Deleted by amendment.)**~~

**Sec. 6.** ~~[NRS 408.562 is hereby amended to read as follows:~~

~~408.562 The Director may recommend to the Board, for its approval, programs to provide information, *services or products* to the traveling public to be paid from such money as is available for this purpose pursuant to NRS 408.567.] **(Deleted by amendment.)**~~

**Sec. 7.** NRS 408.563 is hereby amended to read as follows:

408.563 The Department may contract or enter into other agreements with governmental agencies in this state or an adjoining state or with private persons to study various systems of providing information ~~[, *services or products*]~~ to the traveling public and to *erect or construct, sponsor, operate or maintain* signs *and centers* which provide ~~[that] such~~ information ~~[.] *services or products*]~~ to the traveling public.

**Sec. 8.** NRS 408.567 is hereby amended to read as follows:

408.567 1. Money received by the Department from:

(a) Fees for:

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and

(2) Providing ~~[information]~~ :

*(I) Information* ~~[, *services or products*]~~ concerning commercial attractions ; and ~~[services;]~~

*(II) Items designed to promote tourism in this State;*

(b) Participants in a telephone system established to reserve accommodations for travelers; and

(c) Appropriations made by the Legislature for the purposes of NRS 408.551 to 408.567, inclusive,

↪ must be deposited with the State Treasurer for credit to the Account for Systems of Providing Information to the Traveling Public in the State Highway Fund, which is hereby created.

2. Money in the Account must only be used to carry out the provisions of NRS 408.551 to 408.567, inclusive.

**Sec. 9.** This act becomes effective on July 1, 2013.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

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

Assembly Bill No. 454.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 796.

AN ACT relating to the Department of Motor Vehicles; requiring certain sellers, lessors, dealers and rebuilders of vehicles to transmit certain information to the Department in an electronic format; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law, in relevant part, requires sellers of new vehicles, long-term lessors of new vehicles, sellers of used or rebuilt vehicles, and long-term lessors of used or rebuilt vehicles, upon such sale or lease, to furnish certain information to the Department of Motor Vehicles and the buyer or lessee, as applicable. (NRS 482.423-482.4245) **Sections 1-4** of this bill require such sellers and lessors to furnish the necessary information to the Department by way of electronic transmission. Under existing law, it is a gross misdemeanor for a person to commit certain fraudulent acts with respect to certain documents or security interests in vehicles, or to fail to submit certain reports to the Department within a prescribed time period. **(NRS 482.436) Section 5** of this bill removes the original of a seller's or lessor's report of sale or lease from the list of documents for which it is a crime to fail to submit the document to the Department within a certain time period.

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

**Section 1.** NRS 482.423 is hereby amended to read as follows:

482.423 1. When a new vehicle is sold in this State for the first time, the seller shall complete and ~~execute~~ *submit to the Department* a manufacturer's certificate of origin or a manufacturer's statement of origin and, unless the vehicle is sold to a dealer who is licensed to sell the vehicle, *transmit electronically to the Department* a dealer's report of sale. The dealer's report of sale must be *transmitted electronically to the Department*

in ~~[a form prescribed]~~ **the manner required** by the Department and must include:

- (a) A description of the vehicle;
- (b) The name and address of the seller; and
- (c) The name and address of the buyer.

2. If, in connection with the sale, a security interest is taken or retained by the seller to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the vehicle, the name and address of the secured party or his or her assignee must be ~~entered on~~ **included in** the dealer's report of sale and on the manufacturer's certificate or statement of origin.

3. Unless an extension of time is granted by the Department, the seller shall:

- (a) Collect the fees set forth in NRS 482.429 for:
  - (1) A certificate of title for a vehicle registered in this State; and
  - (2) The processing of the dealer's report of sale; and
- (b) Within 20 days after the ~~execution~~ **electronic transmission to the Department** of the dealer's report of sale:

(1) Submit to the Department the ~~original of the dealer's report of sale and the~~ manufacturer's certificate or statement of origin; and

(2) Remit to the Department the fees collected pursuant to paragraph (a).

4. Upon entering into a contract or other written agreement for the sale of a new vehicle, the seller shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

5. Compliance with the requirements of subsection 4 permits the vehicle to be operated for a period not to exceed 30 days after the execution of a written agreement to purchase or the contract of sale, whichever occurs first. Upon the issuance of the certificate of registration and license plates for the vehicle or the expiration of the temporary placard, whichever occurs first, the buyer shall remove the temporary placard from the rear of the vehicle.

6. For the purposes of establishing compliance with the period required by paragraph (b) of subsection 3, the Department shall use the date ~~[imprinted or otherwise indicated]~~ on **which** the dealer's report of sale **was transmitted electronically to the Department** as the beginning date of the 20-day period.

7. Upon execution of all the documents necessary to complete the sale of a vehicle, including, without limitation, the financial documents, the dealer shall ~~execute~~ **complete** the dealer's report of sale and furnish a copy of the ~~report~~ **information included therein** to the buyer not less than 10 days before the expiration of the temporary placard.

8. The provisions of this section do not apply to kit trailers.

**Sec. 2.** NRS 482.4235 is hereby amended to read as follows:

482.4235 1. If a new vehicle is leased in this State by a long-term lessor, the long-term lessor shall complete and ~~execute~~ **submit to the Department** a manufacturer's certificate of origin or a manufacturer's statement of origin, and **transmit electronically to the Department** a long-term lessor's report of lease. Such a report must be **transmitted electronically to the Department** in ~~a form prescribed~~ **the manner required** by the Department and must include:

- (a) A description of the vehicle; and
- (b) The names and addresses of the long-term lessor, long-term lessee and any person having a security interest in the vehicle.

2. Unless an extension of time is granted by the Department, the long-term lessor shall, within 20 days after the ~~execution~~ **electronic transmission to the Department** of the long-term lessor's report of lease:

- (a) Submit to the Department the ~~original of the long-term lessor's report of lease and the~~ manufacturer's certificate of origin or manufacturer's statement of origin; and
- (b) Collect and remit to the Department the fee set forth in NRS 482.429 for the processing of the long-term lessor's report of lease.

3. Upon entering into a lease or written agreement to lease for a new vehicle, the long-term lessor shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

4. Compliance with the requirements of subsection 3 permits the vehicle to be operated for a period not to exceed 30 days after the execution of a written agreement to lease or the lease, whichever occurs first. Upon issuance of the certificate of registration and license plates for the vehicle or the expiration

of the temporary placard, whichever occurs first, the long-term lessee shall remove the temporary placard from the rear of the vehicle.



5. For the purposes of establishing compliance with the period required by subsection 2, the Department shall use the date ~~[imprinted or otherwise indicated]~~ on **which** the long-term lessor's report of lease **was transmitted electronically to the Department** as the beginning date of the 20-day period.

6. Upon executing all the documents necessary to complete the lease of the vehicle, including, without limitation, the financial documents, the long-term lessor shall ~~[execute]~~ **complete** the long-term lessor's report of lease and furnish a copy of the ~~[report]~~ **information included therein** to the long-term lessee not less than 10 days before the expiration of the temporary placard.

**Sec. 3.** NRS 482.424 is hereby amended to read as follows:

482.424 1. When a used or rebuilt vehicle is sold in this State to any person, except a licensed dealer, by a dealer, rebuilder, long-term lessor or short-term lessor, the seller shall complete and ~~[execute]~~ **submit to the Department** a dealer's or rebuilder's report of sale. The dealer's or rebuilder's report of sale must be **transmitted electronically to the Department** in ~~[a form prescribed]~~ **the manner required** by the Department and must include:

- (a) A description of the vehicle, including whether it is a rebuilt vehicle;
- (b) The name and address of the seller; and
- (c) The name and address of the buyer.

2. If a security interest exists at the time of the sale, or if in connection with the sale a security interest is taken or retained by the seller to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the vehicle, the name and address of the secured party must be ~~[entered on]~~ **included in** the dealer's or rebuilder's report of sale.

3. Unless an extension of time is granted by the Department, the seller shall:

- (a) Collect the fees set forth in NRS 482.429 for:
  - (1) A certificate of title for a vehicle registered in this State; and
  - (2) The processing of the dealer's or rebuilder's report of sale; and
- (b) Within 30 days after the ~~[execution]~~ **electronic transmission to the Department** of the dealer's or rebuilder's report of sale:

(1) Submit to the Department the ~~[original of the dealer's or rebuilder's report of sale and the]~~ properly endorsed certificate of title previously issued for the vehicle; and

(2) Remit to the Department the fees collected pursuant to paragraph (a).

4. Upon entering into a contract or other written agreement for the sale of a used or rebuilt vehicle, the seller shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

5. Compliance with the requirements of subsection 4 permits the vehicle to be operated for not more than 30 days after the execution of a written agreement to purchase or the contract of sale, whichever occurs first. Upon the issuance of the certificate of registration and license plates for the vehicle or the expiration of the temporary placard, whichever occurs first, the buyer shall remove the temporary placard from the rear of the vehicle.

6. To establish compliance with the period required by paragraph (b) of subsection 3, the Department shall use the date ~~imprinted or otherwise indicated~~ on *which* the dealer's or rebuilder's report of sale *was transmitted electronically to the Department* as the beginning date of the 30-day period.

7. Upon executing all the documents necessary to complete the sale of the vehicle, including, without limitation, the financial documents, the seller shall ~~execute~~ *complete* the dealer's or rebuilder's report of sale and furnish a copy of the ~~report~~ *information included therein* to the buyer not less than 10 days before the expiration of the temporary placard.

**Sec. 4.** NRS 482.4245 is hereby amended to read as follows:

482.4245 1. If a used or rebuilt vehicle is leased in this State by a long-term lessor, the long-term lessor shall complete and ~~execute~~ *submit to the Department* a long-term lessor's report of lease. Such a report must be *transmitted electronically to the Department* in ~~a form prescribed~~ *the manner required* by the Department and must include:

- (a) A description of the vehicle;
- (b) An indication as to whether the vehicle is a rebuilt vehicle; and
- (c) The names and addresses of the long-term lessor, long-term lessee and any person having a security interest in the vehicle.

2. Unless an extension of time is granted by the Department, the long-term lessor shall, within 30 days after the ~~execution~~ *electronic transmission to the Department* of the long-term lessor's report of lease:

- (a) Submit to the Department the ~~original of the long-term lessor's report of lease and the~~ properly endorsed certificate of title previously issued for the vehicle; and

- (b) Collect and remit to the Department the fee set forth in NRS 482.429 for the processing of the long-term lessor's report of lease.

3. Upon entering into a lease or written agreement to lease for a used or rebuilt vehicle, the long-term lessor shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

4. Compliance with the requirements of subsection 3 permits the vehicle to be operated for a period not to exceed 30 days after the execution of a written agreement to lease or the lease, whichever comes first. Upon issuance of the certificate of registration and license plates for the vehicle or the expiration

of the temporary placard, whichever occurs first, the long-term lessee shall remove the temporary placard from the rear of the vehicle.

5. To establish compliance with the period required by subsection 2, the Department shall use the date ~~imprinted or otherwise indicated~~ on *which* the long-term lessor's report of lease *was transmitted electronically to the Department* as the beginning date of the 30-day period.

6. Upon executing all the documents necessary to complete the lease of the vehicle, including, without limitation, the financial documents, the long-term lessor shall ~~execute~~ *complete* the long-term lessor's report of lease and furnish a copy of the ~~report~~ *information included therein* to the long-term lessee not less than 10 days before the expiration of the temporary placard.

**Sec. 5.** NRS 482.436 is hereby amended to read as follows:

482.436 Any person is guilty of a gross misdemeanor who knowingly:

1. Makes or causes to be made any false entry on any certificate of origin or certificate of title;

2. Furnishes or causes to be furnished false information to the Department concerning any security interest; or

3. Fails to submit or causes to not be submitted the ~~original of the dealer's or long-term lessor's report of sale or lease, together with the~~ certificate of title or certificate of ownership issued for a used vehicle to the Department within the time prescribed in subsection 3 of NRS 482.424 or, if a leased vehicle, subsection 2 of NRS 482.4235.

**Sec. 6.** This act becomes effective on July 1, ~~2013~~ **2014**.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 301.

Bill read third time.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

Assembly Bill 301 requires the Legislative Committee on Public Lands to conduct a study of water issues during the 2013-2014 interim. The study would include: (1) water resource issues; (2) studies quantifying water use; (3) the consumptive use of water measured in gallons per capita per day; (4) alternative water sources; and (5) efforts related to apportionment of water within interstate groundwater basins.

The Public Lands Committee shall, in addition to its required final report, submit a report on its findings and recommendations for legislation on water no later than February 1, 2015, for consideration by the 78th Session of the Nevada Legislature.

I am proud to report to this body that this is a collaborative effort between the Central Nevada Water Authority and Southern Nevada Water Authority. It was a great opportunity for us to get together, and we hope this passes.

Roll call on Assembly Bill No. 301:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 301 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 304.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Assembly Bill 304 makes an appropriation of \$136,960.55 for the salary of a Veterans Court Coordinator contingent upon non-state matching funds to the Eighth Judicial District Court. This appropriation is not in The Executive Budget. Any remaining balance of the appropriation must not be committed for expenditures after June 30, 2015, and must revert to the General Fund at the end of the 2013-15 biennium.

During the interim, the Legislative Committee on Seniors Citizens, Veterans and Adults with Special Needs did a lot of study on veterans court and found it was a money saver in Washoe County, which is already funded with an AOC [Administrative Office of the Courts] grant. This would allow us to get the program up and running in Clark County, saving money in Clark County's justice system, public defenders, and district attorneys. I urge passage because it will really help veterans as well.

Roll call on Assembly Bill No. 304:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 304 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 405.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 405, as amended, allows a seasonal resident to apply to the DMV [Department of Motor Vehicles] for a seasonal identification card. The bill requires the DMV to charge \$17 for the identification card, which would expire after four years. The bill provides that applicants do not have to surrender an out-of-state driver's license or identification card when applying for a seasonal resident identification card.

This bill allows seasonal residents and out-of-state students with seasonal resident identification cards to apply to the DMV for a seasonal resident permit, also. The bill requires the applicants to pay a fee of \$18 for each vehicle permit and submit proof that the vehicle is currently registered and insured in the state, country, or other place the owner or applicant is a resident.

Assembly Bill 405, as amended, allows the DMV to issue a decal, sticker, or other indicia to a seasonal resident who properly permits a vehicle. The decal, sticker, or other indicia must be displayed on the vehicle and expires after one year. It is limited to private passenger vehicles, noncommercial trucks, and recreational vehicles. This bill does not apply to commercial vehicles or those used for business purposes.

Assembly Bill 405, as amended, is effective upon passage and approval for the purposes of adopting regulations and performing preparatory administrative tasks and on January 1, 2015, for all other purposes.

Roll call on Assembly Bill No. 405:

YEAS—40.

NAYS—Fiore.

EXCUSED—Pierce.

Assembly Bill No. 405 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 408.

Bill read third time.

Remarks by Assemblywoman Neal.

ASSEMBLYWOMAN NEAL:

Assembly Bill 408 requires a state agency to make a concerted effort to determine the impact of a proposed regulation and to conduct, or cause to be conducted, an analysis of the likely impact of the regulation on a small business. The governing body of a local government is similarly charged with determining the impact of the proposed rule on the small business. A copy of the small business impact statement must be submitted to the Legislative Counsel when the adopted regulation is submitted. The Legislative Commission must return the regulation to the agency if it is not. The Legislative Commission or the Subcommittee to Review Regulations may reject a regulation if the small business impact statement submitted is inaccurate, incomplete, or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses.

Roll call on Assembly Bill No. 408:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 408 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 410.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 410, as amended, requires the Office of Economic Development, institutions within the Nevada System of Higher Education, and other interested parties to develop, create, and oversee a pilot program designed to stimulate Nevada's economy. The program is to be designed to provide assistance to businesses that are already located and operating in Nevada, rather than to recruit businesses from other states to relocate to Nevada.

Assembly Bill 410 also requires the appropriation of \$300,000 from the State General Fund to the Nevada System of Higher Education to purchase software for a geographic information system, to hire a specialist to operate the system, and to provide other services as are necessary to carry out the pilot program.

Assembly Bill 410, as amended, becomes effective upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act and on October 1, 2013, for all other purposes.

This act expires by limitation on June 30, 2017.

Roll call on Assembly Bill No. 410:

YEAS—28.

NAYS—Duncan, Ellison, Fiore, Grady, Hambrick, Hansen, Hickey, Kirner, Livermore, Oscarson, Stewart, Wheeler, Woodbury—13.

EXCUSED—Pierce.

Assembly Bill No. 410 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 414.

Bill read third time.

Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

Assembly Bill 414, as amended, requires a course of study in health education established by the State Board of Education to include instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator. This instruction must be provided, to the extent money is available for this purpose, to students enrolled in a high school, including a charter high school. These provisions also apply to a private high school that offers a course of study in health.

Students with disabilities and those enrolled in a public, charter, or private school through a program of distance education are exempt from the requirements of the bill.

Roll call on Assembly Bill No. 414:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 414 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 424.

Bill read third time.

Remarks by Assemblywoman Neal.

ASSEMBLYWOMAN NEAL:

Assembly Bill 424 authorizes the State Fire Marshal or the State Board of Fire Services to issue a written administrative citation if the State Fire Marshal or the Board, based upon a preponderance of the evidence, has reason to believe that a person has violated any statute or regulation related to the State Fire Marshal.

Roll call on Assembly Bill No. 424:

YEAS—40.

NAYS—Fiore.

EXCUSED—Pierce.

Assembly Bill No. 424 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 436.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Assembly Bill 436 requires the Public Utilities Commission [PUC] of Nevada to adopt regulations specifying the information and criteria it will consider when reviewing a request to recover an amount based on the anticipated effects of a water conservation plan, recover the costs of providing service without regard to the quantity of water sold, and impose a surcharge to fund and encourage infrastructure investments.

Currently, the PUC regulates approximately 30 water utilities that range in size between 25 to 4,000 customers. The largest of these utilities in central Nevada is located in Pahrump and has approximately 4,000 customers. The average customer base of a PUC-regulated water company in Nevada is only about 270 customers. Under existing law, municipally-owned water or wastewater systems are not regulated by the Public Utilities Commission.

Roll call on Assembly Bill No. 436:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 436 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 38.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 38 amends the statutes relating to the dissemination of criminal history information to employers. The bill expands the definition of “employer” to include employers whose employees or volunteers regularly render services to elderly persons and persons with disabilities. This bill also authorizes an employer to request criminal history information when making a decision to retain or discharge a volunteer whose duties involve contact with children, elderly persons, and persons with disabilities and who has signed a written consent.

Roll call on Senate Bill No. 38:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 38 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Horne moved that the Assembly recess until 3 p.m.

Motion carried.

Assembly in recess at 1:28 p.m.

#### ASSEMBLY IN SESSION

At 3:37 p.m.

Madam Speaker presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 267 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Horne moved that Senate Bill No. 373 be taken from the Chief Clerk’s desk and placed at the bottom of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 54.

Bill read third time.

Remarks by Assemblyman Thompson.

ASSEMBLYMAN THOMPSON:

Senate Bill 54 prohibits a private building owner or governmental agency that owns or controls a building or property where a vending stand is established from requiring the Bureau of Services to Persons Who are Blind or Visually Impaired, Rehabilitation Division, Department of Employment, Training and Rehabilitation or vending stand operator to pay any rent, fee, or assessment that is based on the square footage of the portion of the building or property where the vending stand is located. A private building owner or governmental agency is authorized to enter into an agreement with the Bureau to recover increases in utility or other costs where there



is a direct and measurable increase in such costs as a result of the vending stand. Finally, the Bureau is required to provide an accounting of any money remaining in the Business Enterprise Account for Persons Who Are Blind to all licensed vending stand operators and distribute to each operator his or her proportionate share of such money.

Roll call on Senate Bill No. 54:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 54 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 80.

Bill read third time.

Remarks by Assemblywoman Fiore.

ASSEMBLYWOMAN FIORE:

Senate Bill 80 makes various changes governing dairy products and dairy substitutes. Specifically, the measure authorizes the State Dairy Commission to impound and dispose of any adulterated milk or milk product or any misbranded milk or milk product and impose a civil penalty of not more than \$1,000 for a violation of certain provisions governing permits for the sale of milk and cream. Additionally, S.B. 80 revises membership qualifications for certain members of the Commission, and it allows the Commission to accept gifts and grants to promote and develop the economic viability of the dairy industry in this state. The bill also makes various changes to frozen desserts and distributors of fluid milk and cream.

Finally, the measure revises various definitions for certain dairy products and eliminates numerous provisions governing dairy products and dairy substitutes.

Roll call on Senate Bill No. 80:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 80 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 141.

Bill read third time.

Remarks by Assemblywoman Cohen.

ASSEMBLYWOMAN COHEN:

Senate Bill 141 requires an agency of criminal justice to disseminate a record of criminal history to a court-appointed special advocate program in a county whose population is less than 100,000 as needed to ensure the safety of a child for whom a special advocate has been appointed by a court.

Roll call on Senate Bill No. 141:

YEAS—30.

NAYS—Aizley, Bobzien, Carrillo, Ellison, Fiore, Frierson, Hardy, Hogan, Martin, Spiegel, Thompson—11.

EXCUSED—Pierce.

Senate Bill No. 141 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 209.

Bill read third time.

Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

Senate Bill 209 requires each regional development authority in the state to present a plan to the Executive Director of the Governor's Office of Economic Development regarding the development and enhancement of a recruiting and marketing effort to attract professionals and businesses to the region of the state served by that regional development authority.

The bill additionally requires the Executive Director of the Office of Economic Development to consider those plans in carrying out his or her duties relating to the State Plan for Economic Development.

Roll call on Senate Bill No. 209:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 209 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 228.

Bill read third time.

Remarks by Assemblyman Duncan.

ASSEMBLYMAN DUNCAN:

Senate Bill 228 revises procedures applicable to the Commission on Ethics. The bill adds and applies definitions to the Nevada Ethics in Government Law for domestic partners and domestic partnerships and clarifies other definitions. With respect to the procedures of the Commission, the bill provides for: (1) computation of deadlines; (2) temporary designation of a replacement for the Executive Director in situations where a conflict prevents the Executive Director from participating; (3) retention of assessments received from local governments; (4) payment of the costs of subpoenas; (5) elimination of deadlines for written opinions; (6) confidentiality of documents, such as the investigatory file; and (7) assignment of responsibility for collecting acknowledgments of ethical standards from public officers and dissemination of the explanation of the ethics standards to public employees.

Roll call on Senate Bill No. 228:

YEAS—36.

NAYS—Ellison, Fiore, Hansen, Hardy, Wheeler—5.

EXCUSED—Pierce.

Senate Bill No. 228 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 252.

Bill read third time.

Remarks by Assemblywoman Diaz.

ASSEMBLYWOMAN DIAZ:

Senate Bill 252 revises provisions related to the Renewable Portfolio Standard [RPS]. The measure limits the qualifications of a portfolio energy system for purposes of meeting the RPS to: (1) those systems placed into operation after July 1, 1997, or (2) those systems placed into operation before July 1, 1997, if the system was used to satisfy the requirement before July 1, 2009. The bill also limits the qualifications of an energy efficiency measure for purposes of meeting the RPS to those measures installed on or before December 31, 2019. Further, S.B. 252 eliminates the 2.4 kilowatt-hour multiplication factor for each 1 kilowatt-hour actually generated or acquired from a solar photovoltaic system for purposes of calculating portfolio energy credits [PEC] for any system placed into operation after December 31, 2015. Similarly, the measure excludes from the calculation of PECs the energy used by a portfolio energy system for its basic operations for any system placed into operation after December 31, 2015.

The bill authorizes a provider of electric service that carries forward 10 to 25 percent more kilowatt-hours of electricity than the provider needs to satisfy the RPS for the subsequent calendar year to sell the excess electricity. Additionally, the measure requires a provider that carries forward 25 percent or more of the amount of PECs necessary to comply with the RPS for the subsequent year to make reasonable efforts to sell any excess credits.

Finally, S.B. 252 requires the PUC of Nevada to open an investigatory docket to study, examine, and review the process for the sale of PECs and to submit a written report of its findings to the 78th Session of the Nevada Legislature.

Roll call on Senate Bill No. 252:

YEAS—27.

NAYS—Paul Anderson, Duncan, Ellison, Fiore, Grady, Hambrick, Hansen, Hardy, Hickey, Kirner, Livermore, Oscarson, Wheeler, Woodbury—14.

EXCUSED—Pierce.

Senate Bill No. 252 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 273.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Senate Bill 273 provides that in a county with a population less than 45,000, a deputy sheriff who has completed a 12-month probationary period may be terminated from employment for cause for failing to become certified by the Peace Officers' Standards and Training Commission within the statutorily required time, for losing POST certification, or for failing to maintain a valid driver's license.

Roll call on Senate Bill No. 273:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 273 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 284.

Bill read third time.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Senate Bill 284 requires that if a law enforcement officer employed by a law enforcement agency in a county whose population is 100,000 or more is involved in a fatal vehicle accident, a different law enforcement agency must investigate the accident. There are some exceptions to this that I could go into, Madam Speaker, but if you do not want me to, I will just recommend this bill be passed.

Roll call on Senate Bill No. 284:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 284 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 285.

Bill read third time.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

Senate Bill 285 revises provisions governing requirements to obtain a permit to operate an air ambulance and to obtain a license to serve as an attendant on an air ambulance. Specifically, the bill provides that air ambulances based outside Nevada and attendants rendering services solely on such air ambulances are only exempt from these requirements if the operator delivers patients from a location outside Nevada to a location within Nevada and does not receive any patients within Nevada.

The measure also specifies that only the medical aspects of the operation of the air ambulance may be considered in determining whether to issue a permit to operate an air ambulance and precludes consideration of certain economic factors when making this determination. Inspections conducted concerning the issuance of a permit must be related only to the medical aspects of the operation of the air ambulance.

Finally, S.B. 285 eliminates the requirement that an owner of an air ambulance file a change in his or her schedule of rates before the change becomes effective.

Roll call on Senate Bill No. 285:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 285 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 286.

Bill read third time.

Remarks by Assemblyman Duncan.

ASSEMBLYMAN DUNCAN:

Senate Bill 286 defines the right to free speech in direct connection with an issue of public concern to be communication made in a place open to the public or in a public forum. A person who engages in such communication is immune from any civil action for claims based upon that communication. If a civil action is sought and the person who engaged in the communication files a special motion to dismiss, the measure adds a process for the court to follow and provides that a court ruling on the motion must be made within seven judicial days after the motion is served upon the plaintiff.

If a court grants a special motion to dismiss, the measure provides that in addition to reasonable costs and attorney's fees, the court may award an amount up to \$10,000 to the person against whom the action was brought. If the court denies a special motion to dismiss and finds that the motion was frivolous or vexatious, the measure provides that the prevailing party shall receive reasonable costs and attorney's fees and may be granted an amount up to \$10,000 and any such additional relief as the court deems proper to punish and deter the filing of frivolous or vexatious motions. Finally, the measure provides that if the court denies a special motion to dismiss, an interlocutory appeal lies to the Supreme Court.

Roll call on Senate Bill No. 286:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 286 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 67 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 67.

Bill read third time.

Remarks by Assemblyman Frierson.

ASSEMBLYMAN FRIERSON:

Assembly Bill 67 defines the crime of sex trafficking separately from the crime of pandering. It authorizes the court to order videotaped depositions of a victim of sex trafficking and establishes a rebuttable presumption that good cause exists for such an order. Assembly Bill 67 authorizes a victim of sex trafficking or human trafficking to bring a civil action against the person who caused or profited from the act of trafficking. The bill makes other related changes to the statutes on criminal procedure crimes and punishments and grants the Attorney General concurrent jurisdiction to prosecute any offense involving pandering and sex trafficking without leave of the court.

Roll call on Assembly Bill No. 67:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 67 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 287.

Bill read third time.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

Senate Bill 287 authorizes the holder of a license or a certificate of registration issued by the State Board of Cosmetology to display a duplicate of the license or certificate in lieu of the original license or certificate. Failure to display a duplicate under certain circumstances is grounds for disciplinary action by the Board. The bill authorizes a licensee to obtain a duplicate license from the Board if required by the licensee for reasons other than when the original is destroyed, misplaced, or mutilated or the name or address of the licensee changes.

Roll call on Senate Bill No. 287:

YEAS—40.

NAYS—Neal.

EXCUSED—Pierce.

Senate Bill No. 287 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 288.

Bill read third time.

Remarks by Assemblyman Grady.

ASSEMBLYMAN GRADY:

Senate Bill 288 revises the manner in which a provider of debt-management services may request and receive payment from an individual debtor. A debt-management service may not request or receive payment of any fee or consideration until it has settled the terms of at least one debt pursuant to a settlement agreement or other contract executed by the individual and the individual has made at least one payment under the agreement or contract. The measure enacts rules for determining the amount of the fee or consideration that a debt-management service may request and receive from an individual. Further, the bill removes the requirement that a debt-management service return 65 percent of the setup fee if the provider terminates the agreement for nonpayment by the individual.

Roll call on Senate Bill No. 288:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 288 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 304.

Bill read third time.

Remarks by Assemblyman Daly.

ASSEMBLYMAN DALY:

Senate Bill 304 revises various provisions of the Charter of the City of Sparks. It clarifies that the authority of the City Manager to exercise control over the officers of the City applies only with respect to appointed officers. It also authorizes the City Council to employ special counsel to represent the City Council. The City Attorney shall have no responsibility or authority concerning the subject matter of an attorney employed as a special counsel.

The bill repeals certain sections of the Charter that are duplicated in the City's Civil Service regulations and elsewhere. Additionally, the City's Civil Service Commission is required to call a special meeting not later than 15 days after receiving notice from the City Manager and is required to hold at least one regular meeting each quarter.

Roll call on Senate Bill No. 304:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 304 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 305.

Bill read third time.

Remarks by Assemblyman Eisen.

ASSEMBLYMAN EISEN:

Senate Bill 305 authorizes a public school pupil who is at least 16 years of age and in Grade 11 or 12 to receive one elective credit toward graduation for completing a public or private internship program. The program must be approved by the school district's board of trustees or the governing body of a charter school. That board also must establish application and verification requirements.

I just want to make clear for the body that this measure was one of the legislative initiatives that was developed by the Nevada Youth Legislature, and although it did not come to the body as their designated proposal, it was carried by one of our Senators at their request.

Roll call on Senate Bill No. 305:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 309.

Bill read third time.

Remarks by Assemblywoman Cohen.

ASSEMBLYWOMAN COHEN:

Senate Bill 309 urges the Nevada System of Higher Education and various business organizations, such as chambers of commerce, to establish mentoring programs for new, aspiring, or struggling business entrepreneurs, especially for those who are veterans, small businesses, or minority business owners. The measure also urges the various groups to work together to establish scholarship awards, based upon merit and need, and consider best practices for similar mentoring programs, including those that provide peer mentoring and training in management, to turn business ideas into viable businesses.

Roll call on Senate Bill No. 309:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 309 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 310.

Bill read third time.

Remarks by Assemblyman Daly.

ASSEMBLYMAN DALY:

Senate Bill 310 deletes the requirement that a financial institution operating an electronic terminal must disclose certain fees on a sign posted on or in clear view of the electronic terminal. The bill also authorizes a state-chartered bank to engage in a derivative transaction with the consent and written approval of the Commissioner of Financial Institutions. The measure provides that the total outstanding loans of such a bank, for the purpose of calculating the lending limit of the bank, must include the credit exposure of the bank arising from certain transactions, including derivative transactions.

Roll call on Senate Bill No. 310:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 310 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 317.

Bill read third time.

Remarks by Assemblyman Wheeler and Madam Speaker.

ASSEMBLYMAN WHEELER:

Senate Bill 317 clarifies that it is an unfair act or practice for a manufacturer or distributor of vehicles and certain related entities to require a dealer to agree to any terms or conditions of a franchise agreement that waive certain provisions of Nevada law governing franchises for sales of motor vehicles. The bill further provides that any waiver of such provisions is void and unenforceable.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

What are we waiving? What part of the franchise agreement?



ASSEMBLYMAN WHEELER:

The way it was explained, I understand that during some franchise agreement negotiations, dealers were asked to actually sign a waiver of Nevada law in some instances that they could be held liable for, and their franchise taken away from them.

Roll call on Senate Bill No. 317:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 317 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 318.

Bill read third time.

Remarks by Assemblyman Hickey.

ASSEMBLYMAN HICKEY:

Senate Bill 318 requires the Nevada Commissioner of Insurance to conduct a study of claims, coverage, and payments under dental and health insurance policies. The Commissioner is required to present the study results to the Legislative Committee on Health Care on or before June 1, 2014.

Roll call on Senate Bill No. 318:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 318 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 325.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Senate Bill 325 requires an explanation of a ballot question to include a digest consisting of a summary of existing laws directly related to the question and a statement of the impact of the proposal on those laws. The digest must also indicate the effect of the ballot question on public revenues. A question placed on a ballot by a governing body of a political subdivision must be written in easily understood language and include a digest. The measure requires governing bodies of all cities or counties to appoint committees to draft arguments in support of or in opposition to ballot questions, including advisory questions. Obsolete provisions requiring certain governing bodies to provide arguments for and against ballot questions are eliminated.

I want to praise the chairwoman of the Senate Legislative Operations and Elections Committee for bringing this bill forward. I know there have been many times that I have talked to constituents who tell me they vote against all of the ballot questions because they do not understand them. I hope this bill, should it pass into law, will help make those questions understandable because it is a vital part of our democratic process.

Roll call on Senate Bill No. 325:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 325 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 335.

Bill read third time.

Remarks by Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:

Senate Bill 335 requires a person seeking to be employed or to enter into a contract or lease to drive a taxicab in a county under the jurisdiction of the Nevada Transportation Authority, which is all counties except Clark County, to obtain a medical examiner's certificate indicating the prospective driver meets certain health requirements. The bill also adds a chiropractor to the list of professionals who can provide a medical examiner's certificate for any prospective taxicab driver under the jurisdiction of the NTA.

Roll call on Senate Bill No. 335:

YEAS—40.

NAYS—Neal.

EXCUSED—Pierce.

Senate Bill No. 335 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 338.

Bill read third time.

Remarks by Assemblyman Martin.

ASSEMBLYMAN MARTIN:

Senate Bill 338 changes various terms in the *Nevada Revised Statutes* related to mental health. Specifically, it replaces the terms "mental retardation" and "mentally retarded" with "intellectual disability" and with "intellectually disabled," respectively. The bill also changes other similar words and terms in a similar manner.

Roll call on Senate Bill No. 338:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 338 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 342.

Bill read third time.

Remarks by Assemblyman Ellison.

ASSEMBLYMAN ELLISON:

Senate Bill 342 authorizes a city or county to establish by ordinance a simplified procedure for the vacation or abandonment of a street it owns for the purpose of conforming the legal description of real property to a recorded survey or map of the relevant area. Before proceeding with the simplified procedure, a governing body must provide written notice to utility and video service providers to ensure that any issues related to easements on the affected property can be addressed.

Roll call on Senate Bill No. 342:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 342 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 343.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 343 creates a new category of off-highway vehicle [OHV]. The bill requires the owner of a large all-terrain vehicle to provide proof of insurance that meets the requirements of insurance on an automobile. The bill defines “large all-terrain vehicle” and provides for a new registration sticker or decal distinguishable from the sticker or decal of a standard off-highway vehicle. Additionally, the owner of a large all-terrain vehicle can register either as a standard OHV, as currently required, or the owner can choose the new designation which allows him or her to go on certain roads designated by a city or county.

Roll call on Senate Bill No. 343:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 343 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 344.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

There are behavioral health centers across the state that do private schooling. I use that term not meaning the traditional private school, but when the children go into the behavioral health center, they still have to keep them up on their studies. This allows the dollars to flow to those schools if they—the Washoe County School District or whoever—do not have the staff there. This allows them to not be operating at a loss on those schools.

Roll call on Senate Bill No. 344:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 344 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 345.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Senate Bill 345 creates a 17-member Advisory Council on Science, Technology, Engineering, and Mathematics, or STEM, within Nevada's Department of Education.

Among other things, the Council is required to develop a strategic plan for the development of education resources in STEM to serve as a foundation for workforce development, college preparedness, and economic development. Finally, the Council must submit reports of its activities to the Legislature, the State Board of Education, and the Governor with recommendations on STEM instruction and curriculum.

Roll call on Senate Bill No. 345:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 345 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 347.

Bill read third time.

Remarks by Assemblyman Wheeler and Madam Speaker.

ASSEMBLYMAN WHEELER:

Senate Bill 347 requires the Advisory Commission on the Administration of Justice to include on an agenda a discussion of items relating to parole. At a minimum, the discussion shall include a survey of the parole system of Nevada and other states and territories and a review of states that replaced discretionary parole systems with mandatory parole systems.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I just want to clarify for folks. We have about eight studies on the desk. This does not fall into that category because it is just a direction for the Advisory Commission on the Administration of Justice, which is going to be pretty busy based on the 20 different items everybody wants them to look at.

Roll call on Senate Bill No. 347:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 347 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 350.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 350, as amended, expands the list of authorized purposes for which a school district may issue general obligations pursuant to NRS 387.335 to include the purchase of motor vehicles and other equipment used for the transportation of pupils. Additionally, if money from the issuance of general obligations is used to purchase such equipment and the equipment is subsequently sold, the bill requires the proceeds of the sale to be applied toward the retirement of the general obligations.

This bill, as amended, becomes effective on July 1, 2013.

Roll call on Senate Bill No. 350:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 350 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 351.

Bill read third time.

Remarks by Assemblywoman Diaz.

ASSEMBLYWOMAN DIAZ:

Senate Bill 351 prohibits a health care provider or health facility that treats a patient for a condition for which the patient has filed or intends to file a civil claim to recover damages, or any business in which such a provider or facility has a financial interest, from acquiring a debt or lien for services that arise from the same claim and are provided to the patient by another facility.

A person who violates these provisions is guilty of a category E felony and may be further punished by a fine of not more than \$25,000 for each violation.

Roll call on Senate Bill No. 351:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 351 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 4:31 p.m.

#### ASSEMBLY IN SESSION

At 4:35 p.m.

Madam Speaker presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that the Assembly reconsider the action whereby Senate Bill No. 347 was passed.

Remarks by Assemblyman Horne.

Motion carried.

Assemblyman Horne moved that Senate Bill No. 347 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Benitez-Thompson moved that the Assembly rescind the action whereby Senate Bill No. 235 was passed.

Remarks by Assemblywoman Benitez-Thompson.

Motion carried.

Assemblywoman Benitez-Thompson moved that Senate Bill No. 235 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 235.

Bill read third time.

The following amendment was proposed by Assemblywoman Benitez-Thompson:

Amendment No. 818.

AN ACT relating to scrap metal; authorizing a local law enforcement agency to establish or utilize an electronic reporting system to receive information relating to purchases of scrap metal; requiring, under certain circumstances, a scrap metal processor to submit electronically to a local law enforcement agency or certain third parties certain information relating to certain purchases of scrap metal; requiring the Division of Industrial Relations of the Department of Business and Industry to adopt regulations relating to the confidentiality of reported information; revising provisions

relating to certain records maintained by scrap metal processors; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides certain restrictions on the sale and purchase of scrap metal in this State and requires scrap metal processors to maintain certain records of purchases of scrap metal. (NRS 647.092-647.098) **Section 1.3** of this bill authorizes a local law enforcement agency to establish an electronic reporting system or utilize an existing electronic reporting system to receive certain information relating to scrap metal purchases within the jurisdiction of the law enforcement agency. **Section 1.3** requires that the system be electronically secure and accessible only to: (1) a scrap metal processor for the purpose of submitting certain information; (2) an officer of the local law enforcement agency; and (3) an authorized employee of any third party that the local law enforcement agency contracts with for the purpose of receiving and storing the information submitted by a scrap metal processor. If a local law enforcement agency establishes an electronic reporting system or utilizes an existing electronic reporting system, **section 1.3** requires a scrap metal processor to submit electronically to the local law enforcement agency or, if applicable, any third party that the local law enforcement agency has contracted with, certain information relating to each purchase of scrap metal from certain persons. **Section 1.3** further requires the Division of Industrial Relations of the Department of Business and Industry to adopt certain regulations providing for the confidential maintenance of reported information and the oversight of designated third parties that may contract with a law enforcement agency to receive and maintain such information.

**Section 2** of this bill revises provisions relating to the acceptable forms of personal identification which a scrap metal processor may accept for the purpose of maintaining certain records relating to purchases of scrap metal.

**Section 1.5** of this bill provides that a person is immune from any civil liability for any action taken with respect to carrying out the provisions of this bill, so long as such actions are taken in good faith and without malicious intent.

**Section 1.7** of this bill requires a person in whose possession the information required to be submitted to a local law enforcement agency is held to keep the information confidential. **Section 1.7** also provides that a person who knowingly and willfully violates this requirement is guilty of a gross misdemeanor.

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

**Section 1.** Chapter 647 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3, 1.5 and 1.7 of this act.

**Sec. 1.3. 1.** *A local law enforcement agency may establish an electronic reporting system or utilize an existing electronic reporting system to receive information relating to the purchase of scrap metal by a scrap metal processor that transacts business within the jurisdiction of the local law enforcement agency. An electronic reporting system established or utilized pursuant to this subsection must:*

*(a) Be electronically secure and accessible only to:*

*(1) A scrap metal processor for the purpose of submitting the information required by subsection 2;*

*(2) An officer of the local law enforcement agency; and*

*(3) If applicable, an authorized employee of any designated third party.*

*(b) Provide for the electronic submission of information by a scrap metal processor.*

**2.** *If a local law enforcement agency establishes an electronic reporting system or utilizes an existing electronic reporting system pursuant to subsection 1, each scrap metal processor that transacts business within the jurisdiction of the local law enforcement agency shall, before 12 p.m. of each business day, submit electronically to the local law enforcement agency or, if applicable, a designated third party the following information regarding each purchase of scrap metal conducted on the preceding day from a person who sold the scrap metal in his or her individual capacity:*

*(a) The name of the seller;*

*(b) The date of the purchase;*

*(c) The name of the person or employee who conducted the transaction on behalf of the scrap metal processor;*

*(d) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) of subsection 1 of NRS 647.094 and a physical description of the seller, including the seller's gender, height, eye color and hair color;*

*(e) The license number and general description of any vehicle that delivered the scrap metal;*

*(f) The description of the scrap metal recorded pursuant to paragraph*

*(h) of subsection 1 of NRS 647.094; and*

*(g) The amount, in weight, of scrap metal purchased.*

**3.** *If a scrap metal processor is required to submit information to a local law enforcement agency or, if applicable, a designated third party pursuant to subsection 2, the scrap metal processor shall display prominently at the point of purchase a public notice, in a form approved by the local law enforcement agency, describing the information that the scrap metal processor is required to submit electronically to the local law enforcement agency or, if applicable, the designated third party.*



4. *Nothing in this section shall be deemed to limit or otherwise abrogate any duty of a scrap metal processor to maintain a book or other permanent record of information pursuant to NRS 647.094.*

5. *If a local law enforcement agency establishes an electronic reporting system or utilizes an existing electronic reporting system to receive information pursuant to this section, the local law enforcement agency shall, on or before January 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report regarding the effect of the electronic reporting system on the incidence of crime which relates to the sale or purchase of scrap metal within the jurisdiction of the law enforcement agency.*

6. *The provisions of this section do not apply to the purchase of scrap metal from a business entity.*

7. *The Division of Industrial Relations of the Department of Business and Industry shall, in consultation with representatives from local law enforcement agencies in this state and representatives from the scrap metal industry, adopt regulations to ensure the confidentiality of information which is reported and maintained pursuant to this section, including, without limitation, regulations providing for:*

- (a) The confidentiality of consumer information;*
- (b) The confidentiality of proprietary information;*
- (c) Equity of input into contractual terms;*
- (d) Contractual terms relating to disclaimers, indemnification and the ownership of data by a designated third party;*
- (e) Oversight of a designated third party that handles, maintains or has access to such information, including, without limitation, the qualifications, equipment, procedures and background checks required of a designated third party;*
- (f) The manner in which reported information may be used, shared or disseminated; and*
- (g) The maintenance of reported information in relationship to other data maintained by a law enforcement agency.*

8. *As used in this section, "designated third party" means any person with whom a local law enforcement agency has entered into a contract for the purpose of receiving and storing any information required to be submitted electronically by a scrap metal processor pursuant to subsection 2.*

*Sec. 1.5. A person is immune from any civil liability for any action taken in good faith and without malicious intent in carrying out the provisions of NRS 647.094 or section 1.3 of this act.*

*Sec. 1.7. 1. Except as otherwise required pursuant to section 1.3 of this act, any information concerning the purchase of scrap metal, as*

*described in NRS 647.094 and section 1.3 of this act, must be kept confidential by the person in whose possession such information is held.*

**2. A person who knowingly and willfully violates subsection 1 is guilty of a gross misdemeanor.**

**Sec. 2.** NRS 647.094 is hereby amended to read as follows:

647.094 1. Every scrap metal processor shall maintain in his or her place of business a book or other permanent record in which must be made, at the time of each purchase of scrap metal, a record of the purchase that contains:

(a) The date of the purchase.

(b) The name or other identification of the person or employee conducting the transaction on behalf of the scrap metal processor.

(c) A copy of the seller's valid ~~personal~~:

**(1) Personal identification card ~~for valid driver's~~ issued by this State or any other state or territory of the United States;**

**(2) Driver's license issued by ~~a~~ this State or any other state ~~for a copy of the seller's valid~~ or territory of the United States;**

**(3) United States military identification card ~~[-]~~; or**

**(4) Any form of identification which may serve as an acceptable form of identification pursuant to NRS 237.200.**

(d) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) and a physical description of the seller, including the seller's gender, height, eye color and hair color.

(e) A photograph, video record or digital record of the seller.

(f) The fingerprint of the right index finger of the seller. If the seller's right index finger is not available, the scrap metal processor must obtain the fingerprint of one of the seller's remaining fingers and thumbs.

(g) The license number and general description of the vehicle delivering the scrap metal that is being purchased.

(h) A description of the scrap metal that is being purchased which is consistent with the standards published and commonly applied in the scrap metal industry.

(i) The price paid by the scrap metal processor for the scrap metal.

2. All records kept pursuant to subsection 1 must be legibly written in the English language, if applicable.

3. A scrap metal processor shall document each purchase of scrap metal with a photograph or video recording which must be retained on-site for not less than 60 days after the date of the purchase.

4. All scrap metal purchased by the scrap metal processor and the records created in accordance with subsection 1, including, but not limited to, any photographs or video recordings, must at all times during ordinary hours of

business be open to the inspection of a prosecuting attorney or any peace officer.

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Remarks by Assemblywoman Benitez-Thompson.

Amendment adopted.

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

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bills Nos. 287, 336; Senate Bills Nos. 76, 94, 99, 162, 179, 208, 220, 224, 236, 246, 262, 267, 315, 321, 356, 365, 371, 373, 382, 388, 389, 392, 393, 402, 404, 405, 409, 410, 414, 419, 420, 421, 424, 432, 433, 434, 436, 437, 438, 440, 441, 442, 443, 448, 449, 450, 453, 457, 458, 459, 460, 476, 488, 489, 493, 496, 497, 503, 505, 506, 507, 509; Senate Joint Resolutions Nos. 1, 9, 12, 13; Senate Joint Resolution No. 15 of the 76th Session, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

#### NOTICE OF EXEMPTION

May 22, 2013

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: BDR S-1233.

MARK KRMPOTIC  
*Fiscal Analysis Division*

#### UNFINISHED BUSINESS

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 28, 53, 69, 493, 495; Assembly Joint Resolutions Nos. 4, 5, 7; Senate Bills Nos. 97, 98, 102, 103, 104, 105, 108, 110, 114, 117, 122, 127, 130, 136, 140, 148, 153, 154, 157, 158, 159, 163, 175, 189, 215, 216, 227, 264, 268, 272, 274, 281.

#### GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Ryan Diggs, Brett Boyer, Hunter Whitehead, and the following students and chaperones from Truckee Meadows Community College High School: Sebastian Aleman, Alex Armitage, Haley Blonsley, Kaitlin Cates, Lizzie Cates, Shelby Cook, Christiann Crowder, Evan Cunningham, Serena Evans, Ian Gibson, Kaelie Huff, Ashley Jackson, Carly Johnson, J. J. Lake, Kenneth Lester, Diana Morales Herrera, Cheyanne Neuffer,

Karl Nordland, Gienie Mae Oquendo, Selena Padilla, Sonja Petersen, Kyra Pfennig, Keegan Phillips, Lainea Potter, Catrina Ryan, Jakob Shepherd, Tori Speicher, Elysia Stone, Tehman Tariq, Tayllor Thompson, Olivia Thrasher, Kaitlyn West, SaraJane Barnard, Chelsea Bosco, Janea Campbell, Quinn Chapman, Koraleigh Ebbs, Megan Geisinger, Sarah Goode, Tara Humphreys, Kim Kedrowski, Chloe Kelly, Connor Kelly, Tiffany Klaich, Karen Mendoza, Carlie Meyers, Brenda Moreno, Samantha Noose, Colby Noyes, Emily O'Brien, Faith Rucker, Anita Savell, Amanda Scott, Crystal Sepulveda, Jordyn Sliter, Frankie Talbot, Brylee Vann, and Melanie Mahan.

On request of Assemblywoman Flores, the privilege of the floor of the Assembly Chamber for this day was extended to Daniel Hernandez.

On request of Assemblyman Frierson, the privilege of the floor of the Assembly Chamber for this day was extended to Bill Badger and Pat Maisch.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Stavros Anthony and Jollette Gowens.

On request of Assemblyman Hickey, the privilege of the floor of the Assembly Chamber for this day was extended to Austin Slaughter, Ben Lerude, and Mason Osgood.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Michael McDonald, Jason Grove, Jay Matos, and Jesse Law.

On request of Assemblyman Sprinkle, the privilege of the floor of the Assembly Chamber for this day was extended to Neil Heslin.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Gilles Rousseau.

On request of Assemblyman Wheeler, the privilege of the floor of the Assembly Chamber for this day was extended to Ron Hames.

Assemblyman Horne moved that the Assembly adjourn until Thursday, May 23, 2013, at 12 noon.

Motion carried.

Assembly adjourned at 4:48 p.m.

Approved:

MARILYN K. KIRKPATRICK  
*Speaker of the Assembly*

Attest: SUSAN FURLONG  
*Chief Clerk of the Assembly*