

THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 18, 2009

Assembly called to order at 11:55 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rabbi Jonathan Freirich.

Thank you for the honor of providing some opening words today. The Jewish calendar and that of the Legislature correspond in an interesting way right now. Just as each day of the legislative session is counted, so do Jewish people count the days between Passover, in early April this year, and the Feast of Weeks, or Shavuot, at the end of May. These days are called Omer, and according to the Five Books of Moses, the ancient Israelites counted the seven weeks following Passover in order to arrive at the day of the following holiday—so Shavuot, the Feast of Weeks, was a holiday without an official date on the calendar.

The habit of counting days transforms our notion of the passage of time. Whether we count the days of a legislative session that may carry on longer than we planned, or count the days until our winter grain harvest ripens on the stalk without being damaged by difficult spring weather (which may be one of the agricultural sources of the counting on the Jewish calendar), we find out consciousness of the time increases. The focus on knowing the date and number of each day, as opposed to going through the motions and losing track of which day of the week it may be, creates a greater mindfulness of the special nature of each day, and perhaps each moment.

As we all continue our different methods of counting time, may we allow ourselves to take away a greater sense of the importance of all moments, even when we may not count them so diligently.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin 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.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which were referred Senate Bills Nos. 47, 84, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 17, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 128, 253, 261, 277, 313, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Senate Bill No. 276, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 243, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 534, 549, 555, 556, 560, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Assembly Bills Nos. 531, 546, 547, 557, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 65, 148, 254, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Senate Bill No. 312, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 64, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 16, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 76, 79, 121, 139, 236, 486, 510.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 19.

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 16, Amendment No. 631; Assembly Bill No. 52, Amendment No. 615; Assembly Bill No. 109, Amendment No. 620; Assembly Bill No. 191, Amendment No. 629; Assembly Bill No. 192, Amendment No. 652; Assembly Bill No. 274, Amendment No. 596, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 608 to Senate Bill No. 256.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Ocegüera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 33—Memorializing the former Director of the Legislative Counsel Bureau, Arthur J. Palmer.

WHEREAS, The members of the Nevada Legislature were deeply saddened to learn of the recent passing of Arthur “Art” Judson Palmer, Jr., former Director of the Legislative Counsel Bureau, on February 14, 2009; and

WHEREAS, Born in New Jersey on December 10, 1919, Art Palmer drove to Reno in 1939, in his air-cooled Franklin, to attend the University of Nevada where he received his bachelor of science degree from the College of Agriculture in 1943 and later, his master of arts degree in political geography from Columbia University in New York in 1950; and

WHEREAS, Art Palmer worked for the Legislative Counsel Bureau under contract as early as 1948 and began full-time work with the Bureau on December 30, 1960, serving as Research Assistant, then Research Director and eventually as Director of the Legislative Counsel Bureau from March 1, 1972, until his retirement on October 30, 1984; and

WHEREAS, Under the leadership of Arthur J. Palmer, the Legislative Counsel Bureau was modernized into five independent divisions, which continue to the present as the Administrative, Audit, Fiscal Analysis, Legal and Research Divisions, and through the hiring of top-quality attorneys, auditors, fiscal and research analysts, and support staff, the Legislative Counsel Bureau became known as the consummate professional and independent agency for the Legislative Branch of Nevada State Government; and

WHEREAS, Art Palmer understood the benefits of affiliating with other state legislatures through the Council of State Governments and the National Conference of State Legislatures, serving with distinction on NCSL’s Staff Committee, Executive Committee and Nominating Committee and as Staff Vice President, and he received the 1994 John Everhardt “Trooper” Award and the 1998 Legislative Staff Achievement Award; and

WHEREAS, Arthur Judson Palmer was married in 1940 to Alison Mae Cady, an exceptional elementary school teacher who taught in a number of Nevada communities, and together they traveled throughout the United States and abroad and were happily married for 68 years until Alison’s passing on June 22, 2008; and

WHEREAS, The many years of love, dedication and devotion that Art Palmer demonstrated to his wife, family and friends, as well as the many years dedicated to public service, the State of Nevada and the Nevada Legislature, are hereby commended, honored and shall forever be remembered; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature hereby recognize Arthur J. Palmer for his many years of contributions and service to this State and offer their deepest condolences to his family; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Art and Alison’s beloved daughter Cherie Garrison, her husband Bob and granddaughter Kristin Lieby.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblyman Anderson and Madam Speaker.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Concurrent Resolution 33 clearly states, on paper, of a gentleman who made the State of Nevada and the body for which we all work the institution it is today. He truly is the father of the modern day Legislative Counsel Bureau, which serves us so very well. When Art was appointed Director in 1972, the Bureau had but three divisions, a Legal Division, a Research Division, and a combined Fiscal and Auditing Division. Most administrative functions were handled at that time by the agencies of the Executive Branch. Art worked with key legislators in 1973 to make Audit into a separate division and combine Research with Fiscal. In 1977, those two functions were again divided into separate divisions. In 1979, Art again worked with the Legislature to add a fifth LCB Division, which would become known as the Administrative Division. That Division assumed the responsibility for the functions and services that had been provided by the Executive Branch for many years, including accounting and payroll, buildings and grounds, security, mailing, and communications. By the time of Art's retirement in 1984, the Bureau had evolved into an independent structure almost identical to the one we have today.

We are forever indebted to Arthur J. Palmer. Those words were not prepared by me but by Bob Erickson of the Research Division. I want to make sure I attribute these remarks to Mr. Erickson, because he was trying to make sure that we recognize what Mr. Palmer was about on the surface. In reality his contribution is far, far greater. To know and understand the man was to realize the great personal pride he took in this institution. I had the pleasure of meeting him a couple of times. Prior to being hired in December 1960, he put time in as a school teacher. In Elko he worked on the cattle trains. He also taught geography at the University of Nevada and worked with the Nevada Department of Highways and the Employment Security Department. In fact, the political history of Nevada from the Secretary's of State office, which we often rely upon, was largely his hard work. Through his diligent efforts to modernize important state records and documents, he discovered that the description of Nevada's boundaries in Nevada did not include 12,000 square miles of territory including Clark, Esmeralda, Lincoln, and Nye Counties. Thus, in the 1982 election, the *Nevada Constitution* finally brought our southern part of the state into the State of Nevada. Indeed, part of Art's love of geography lead him to every single county seat of government in the entire United States, including the boroughs of Alaska. Art Palmer had a great love for the people of this state and for the institutions of this state. It is fitting that we would rise to honor him and his contributions to our building and to where we are today. He is the guy who had to make it work when we moved from the old building into the new building. So everything about us is a result of this gentleman, and we mourn his passing.

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

I, too, want to extend my condolences to the family. His legacy is felt every day in these halls. He really laid the foundation for what we are today. We are so grateful to you for sharing him with us for so many years. Thank you.

Resolution adopted.

Assemblyman Anderson moved that all rules be suspended and that Assembly Concurrent Resolution No. 33 be immediately transmitted to the Senate.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 195, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 146, 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 64.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 672.

AN ACT relating to courts; increasing the number of district judges in the Second and Eighth Judicial Districts; increasing the number of district judges in the Eighth Judicial District who must be judges of the family court; ~~making an appropriation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill increase the number of district judges in the Second Judicial District, which includes Washoe County, by one district judge, who is not a member of the family court. (NRS 3.010, 3.012)

Sections 3-5 of this bill increase the number of district judges in the Eighth Judicial District, which includes Clark County, by nine district judges, two of whom must be judges of the family court. (NRS 3.010, 3.018, 3.0185)

~~Section 8 of this bill makes an appropriation to pay for the salaries of the additional district judges.~~

Section 10 of this bill provides that this bill will become effective if, and only if, Assembly Bill No. 65 of this session, which provides for the collection and disposition of additional court fees, is enacted by the Legislature and becomes effective.

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

Section 1. NRS 3.012 is hereby amended to read as follows:

3.012 For the Second Judicial District there must be ~~four~~ **15** district judges, 6 of whom must be judges of the family court.

Sec. 2. NRS 3.012 is hereby amended to read as follows:

3.012 For the Second Judicial District there must be ~~eight~~ **nine** district judges who are not judges of the family court.

Sec. 3. NRS 3.018 is hereby amended to read as follows:

3.018 For the Eighth Judicial District there must be ~~[43]~~ 52 district judges, ~~[18]~~ 20 of whom must be judges of the family court.

Sec. 4. NRS 3.018 is hereby amended to read as follows:

3.018 For the Eighth Judicial District there must be ~~[25]~~ 32 district judges who are not judges of the family court.

Sec. 5. NRS 3.0185 is hereby amended to read as follows:

3.0185 For the Eighth Judicial District, in addition to the district judges established pursuant to NRS 3.018, there must be ~~[18]~~ 20 district judges who are judges of the family court.

Sec. 6. The additional district judge required for the Second Judicial District pursuant to section 1 of this act must be selected at the general election held on November 2, 2010, and take office on January 3, 2011. The term of this judge expires on January 5, 2015.

Sec. 7. The additional district judges required for the Eighth Judicial District pursuant to section 3 of this act must be selected at the general election held on November 2, 2010, and take office on January 3, 2011. The terms of these judges expire on January 5, 2015.

~~Sec. 8. 1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of \$1,061,038 for the salaries of the additional district judges required pursuant to sections 1 and 3 of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011. **(Deleted by amendment.)**~~

Sec. 9. The provisions of NRS 354.599 do not apply to any additional expense of a local government that are related to the provisions of this act.

Sec. 10. 1. This section ~~[and sections]~~ **becomes effective upon passage and approval.**

2. If, and only if, Assembly Bill No. 65 of this session is enacted by the Legislature and becomes effective:

(a) Sections 1, 3, 6, 7 and 9 of this act become effective on October 1, 2009.

~~[2.]~~ **(b) Section 8 of this act becomes effective on July 1, 2010.**

~~[3.]~~ **(c) Sections 1 and 3 of this act expire by limitation on January 2, 2011.**

~~[4.]~~ **(d) Sections 2, 4 and 5 of this act become effective on January 3, 2011.**

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 254.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 806.

SUMMARY—Makes the Ombudsman of Consumer Affairs for Minorities a permanent position ~~in the~~ within the Office of the Director of the Department of Business and Industry. (BDR 18-830)

AN ACT relating to the Department of Business and Industry; making the Ombudsman of Consumer Affairs for Minorities a permanent position ~~in the~~ within the Office of the Director of the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The 2007 Legislature created the Office of Ombudsman of Consumer Affairs for Minorities within the Consumer Affairs Division of the Department of Business and Industry as a temporary position for the 2007-2009 biennium. (Chapter 348, Statutes of Nevada 2007, pp. 1662, 1676) This bill makes the Ombudsman of Consumer Affairs for Minorities a permanent position ~~in the~~ within the Office of the Director of the Department.

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

Section 1. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Office of Ombudsman of Consumer Affairs for Minorities is hereby created within the ~~Consumer Affairs Division~~ Office of the ~~Department~~ Director. The Ombudsman shall:

(a) Provide for continued educational, outreach and service programs for minority groups pertaining to consumer fraud; and

(b) Assist the Nevada Commission on Minority Affairs created by NRS 232.852.

2. The Director ~~of the Department~~ shall appoint the Ombudsman of Consumer Affairs for Minorities.

3. The Ombudsman of Consumer Affairs for Minorities is:

(a) In the unclassified service of the State.

(b) Directly responsible to the ~~Commissioner of Consumer Affairs~~ Director.

Sec. 2. NRS 232.505 is hereby amended to read as follows:

232.505 As used in NRS 232.505 to 232.840, inclusive, *and section 1 of this act*, unless the context requires otherwise:

1. "Department" means the Department of Business and Industry.

2. "Director" means the Director of the Department.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 531.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 636.

AN ACT relating to administrative assessments; revising provisions governing the distribution of the proceeds of certain administrative assessments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who pleads or is found guilty of a misdemeanor is required to pay an administrative assessment in addition to any other penalty imposed by the judge. A portion of the proceeds of those assessments must be deposited in the State General Fund and distributed for certain prescribed uses. (NRS 176.059) This bill revises the provisions governing the distribution of those proceeds by: (1) authorizing the Court Administrator to allocate a certain percentage of the proceeds among several prescribed uses; (2) authorizing the use of such proceeds pursuant to legislative authorization for the support of programs within the Office of the Attorney General related to victims of domestic violence; and (3) providing that any proceeds deposited in the State General Fund that are not distributed must be transferred to the uncommitted balance of the State General Fund.

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

Section 1. NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
\$5 to \$49	\$25
50 to 59	40
60 to 69	\$45
70 to 79	50
80 to 89	55
90 to 99	60
100 to 199	70

200 to 299 80
 300 to 399 90
 400 to 499 100
 500 to 1,000 115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

- (a) An ordinance regulating metered parking; or
- (b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court’s docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

- (a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county’s juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon

request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

- (a) Training and education of personnel;
- (b) Acquisition of capital goods;
- (c) Management and operational studies; or
- (d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to subsections 5 and 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) ~~Eighteen~~ **Thirty-six** and one-half percent of the amount distributed to the Office of Court Administrator for ~~the~~ :

(I) **The** administration of the courts ~~[-~~

~~(2) Nine percent of the amount distributed to the Office of Court Administrator for the~~ ;

(II) **The** development of a uniform system for judicial records ~~[-~~

~~(3) Nine percent of the amount distributed to the Office of Court Administrator for continuing~~ ; **and**

(III) **Continuing** judicial education.

~~[(4)]~~ (2) Forty-eight percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

~~[(5)]~~ (3) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

~~[(6)]~~ (4) Twelve percent of the amount distributed to the Office of Court Administrator for the provision of specialty court programs.

(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers' Standards and Training Commission;

(3) The operation by the Department of Public Safety of a computerized interoperative system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime; ~~and~~

(5) The Advisory Council for Prosecuting Attorneys ~~[-]~~; **and**

(6) **Programs within the Office of the Attorney General related to victims of domestic violence.**

9. Any money deposited in the State General Fund pursuant to subsections 5 and 6 that is not distributed ~~by the State Controller~~ or used pursuant to paragraph (b) of subsection 8 must be transferred to the uncommitted balance of the State General Fund.

10. As used in this section:

(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 534.

Bill read second time and ordered to third reading.

Assembly Bill No. 546.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 813.

AN ACT relating to insurance; revising the provisions governing the continuation of health care coverage upon termination of employment with certain smaller employers; allowing an additional election period to continue coverage of health insurance for certain former employees; ~~making an appropriation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Title III of the American Recovery and Reinvestment Act of 2009 provides premium assistance to certain persons to continue coverage of health insurance after termination of employment. (Public Law No. 111-5) The Act provides, in part, for a 65 percent reduction in premium payments for certain persons and an additional election period for certain persons who did not previously elect to continue coverage.

Sections 1 and 2 of this bill revise the premium payment amount and payment frequency for certain persons to continue coverage of health insurance. (NRS 689B.247, 689C.344)

Sections 3 and 4 of this bill allow an additional election period for certain persons who previously qualified to continue coverage under NRS 689B.245 and 689C.340.

~~[Section 5 of this bill provides an appropriation for enforcement of the provisions of this bill.]~~

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

Section 1. NRS 689B.247 is hereby amended to read as follows:

689B.247 1. Any person who elects to continue coverage pursuant to NRS 689B.245 shall pay the premium for that coverage in an amount not to exceed ~~125~~ **110** percent of the premium charged to the employer by the insurer on the date on which that person became eligible for continued coverage.

2. If there is a change in the rate charged or benefits provided under the policy during the time of continued coverage, the premium may not exceed ~~125~~ **110** percent of the new rate charged to the employer.

3. The premiums must be paid to the insurer on a ~~quarterly~~ **monthly** basis.

4. If the payment of a premium is not received by the insurer within 30 days after the date on which it is due, continued coverage must be terminated.

Sec. 2. NRS 689C.344 is hereby amended to read as follows:

689C.344 1. Any person who elects to continue coverage pursuant to NRS 689C.340 shall pay a premium for that coverage in an amount not to exceed ~~125~~ **110** percent of the premium charged to the employer by the insurer for coverage of that person on the date on which that person became eligible for continued coverage.

2. If there is a change in the rate charged or benefits provided under the policy during the time of continued coverage, the premium may not exceed ~~125~~ **110** percent of the new rate charged to the employer.

3. The premiums must be paid to the insurer on a ~~quarterly~~ **monthly** basis.

4. If the payment of a premium is not received by the insurer within 30 days after the date on which it is due, continued coverage must be terminated.

Sec. 3. Notwithstanding any other provision of state law and in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5:

1. ~~Except as otherwise provided in this section, a~~ former employee is eligible to continue coverage under a policy of insurance in the same manner as an employee pursuant to NRS 689B.245 if the former employee:

(a) Was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;

(b) Was eligible to elect to continue coverage as provided in NRS 689B.245 at the time the former employee was terminated; and

(c) Did not have coverage on February 17, 2009.

2. ~~Except as otherwise provided in this section, a~~ spouse or dependent child of a former employee is eligible to continue coverage under a policy of insurance in the same manner as a spouse or dependent child of an employee pursuant to NRS 689B.245 if:

(a) The former employee was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;

(b) The spouse or dependent child of the former employee, as applicable, was eligible to elect to continue coverage as provided in NRS 689B.245 at the time the former employee was terminated; and

(c) The spouse or dependent child of the former employee did not have coverage on February 17, 2009.

3. If an insurer insures a policy of group health insurance for the employees of an employer with less than 20 employees, the insurer shall, within 14 days after the effective date of this act and by certified mail, return receipt requested:

(a) Notify the employer of the duties of the employer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; ~~and~~

(b) **Notify the employer of the duties of the insurer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, including, without limitation, the duty of the insurer:**

(1) To accept a reduced premium payment from a former employee or spouse or dependent child of the former employee who qualifies for coverage pursuant to this section; and

(2) To obtain reimbursement from the Federal Government for the portion of the premium not paid by the former employee or spouse or dependent child of the former employee; and

(c) Mail to the employer a copy of the forms necessary for a former employee or a spouse or dependent child of a former employee to continue coverage pursuant to this section.

4. An employer who is notified pursuant to subsection 3 shall, within 14 days after receiving notice and by certified mail, return receipt requested, to a last known address, provide to any former employee or spouse or dependent child of a former employee who is eligible to continue coverage pursuant to this section:

(a) Notice of his eligibility, with the notification containing information corresponding to the information provided by notification pursuant to section 3001(a)(7)(B) of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; and

(b) A copy of the forms sent by the insurer pursuant to subsection 3.

5. A former employee or spouse or dependent child of a former employee **to whom an employer is required to send notification and forms pursuant to subsection 4** may continue coverage under a policy of insurance pursuant to this section ~~in the same manner as an employee or spouse or dependent child of an employee provided for in NRS 689B.245, except as otherwise provided for by Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.]~~ **by sending to the insurer described in subsection 3, on or before August 31, 2009;**

(a) All necessary forms for coverage; and

(b) The premium payment necessary to begin coverage, as provided by federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.

6. **Coverage provided pursuant to this section:**

(a) Shall, in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, not include any period of time from September 1, 2008, to August 31, 2009, inclusive, for any purpose related to denial, exclusion or limitation of a benefit for a pre-existing condition; and

(b) Begins retroactively on May 1, 2009, regardless of the specific date that the former employee or spouse or dependent child of a former employee complies with the provisions of subsection 5.

7. A violation of this section by an insurer shall be deemed to be an unfair method of competition or unfair or deceptive act or practice under NRS 686A.010 to 686A.310, inclusive.

Sec. 4. Notwithstanding any other provision of state law and in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5:

1. ~~1A~~ Except as otherwise provided in this section, a former employee is eligible to continue coverage under a health benefit plan in the same manner as an employee pursuant to NRS 689C.340 if the former employee:

- (a) Was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;
- (b) Was eligible to elect to continue coverage as provided in NRS 689C.340 at the time the former employee was terminated; and
- (c) Did not have coverage on February 17, 2009.

2. ~~1A~~ Except as otherwise provided in this section, a spouse or dependent child of a former employee is eligible to continue coverage under a health benefit plan in the same manner as a spouse or dependent child of an employee pursuant to NRS 689C.340 if:

- (a) The former employee was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;
- (b) The spouse or dependent child of the former employee, as applicable, was eligible to elect to continue coverage as provided in NRS 689C.340 at the time the former employee was terminated; and
- (c) The spouse or dependent child of the former employee did not have coverage on February 17, 2009.

3. If an insurer insures a health benefit plan for the employees of an employer with less than 20 employees, the insurer shall, within 14 days after the effective date of this act and by certified mail, return receipt requested:

(a) Notify the employer of the duties of the employer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; ~~and~~

(b) Notify the employer of the duties of the insurer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, including, without limitation, the duty of the insurer:

(1) To accept a reduced premium payment from a former employee or spouse or dependent child of the former employee who qualifies for coverage pursuant to this section; and

(2) To obtain reimbursement from the Federal Government for the portion of the premium not paid by the former employee or spouse or dependent child of the former employee; and

(c) Mail to the employer a copy of the forms necessary for a former employee or a spouse or dependent child of a former employee to continue coverage pursuant to this section.

4. An employer who is notified pursuant to subsection 3 shall, within 14 days after receiving notice and by certified mail, return receipt requested, to a last known address, provide to any former employee or spouse or dependent child of a former employee who is eligible to continue coverage pursuant to this section:

(a) Notice of his eligibility, with the notification containing information corresponding to the information provided by notification pursuant to section

3001(a)(7)(B) of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; and

(b) A copy of the forms sent by the insurer pursuant to subsection 3.

5. A former employee or spouse or dependent child of a former employee to whom an employer is required to send notification and forms pursuant to subsection 4 may continue coverage under a health benefit plan pursuant to this section ~~in the same manner as an employee or spouse or dependent child of an employee provided for in NRS 689C.340, except as otherwise provided for by Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.]~~ by sending to the insurer described in subsection 3, on or before August 31, 2009;

(a) All necessary forms for coverage; and

(b) The premium payment necessary to begin coverage, as provided by federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.

6. Coverage provided pursuant to this section:

(a) Shall, in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, not include any period of time from September 1, 2008, to August 31, 2009, inclusive, for any purpose related to denial, exclusion or limitation of a benefit for a pre-existing condition; and

(b) Begins retroactively on May 1, 2009, regardless of the specific date that the former employee or spouse or dependent child of a former employee complies with the provisions of subsection 5.

7. A violation of this section by an insurer shall be deemed to be an unfair method of competition or unfair or deceptive act or practice under NRS 686A.010 to 686A.310, inclusive.

Sec. 5. ~~1. There is hereby appropriated from the State General Fund to the Division of Insurance of the Department of Business and Industry the sum of \$25,000 for enforcement of the provisions of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.] (Deleted by amendment.)~~

Sec. 6. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 547.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 809.

AN ACT relating to state financial administration; revising provisions governing the distribution of proceeds collected from fees that must be paid to reinstate the registration of a motor vehicle that has been suspended for failure to have proper insurance; **revising provisions governing the renewal of the registration of a motor vehicle**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a fee of \$250 to reinstate the registration of a motor vehicle that was suspended because the registered owner failed to have insurance on the date specified in the form for verification that was mailed to the owner, and for a fee of \$50 for a registered owner of a dormant vehicle who cancelled or allowed the insurance coverage to expire before cancelling the registration of the vehicle. (NRS 482.480) The proceeds collected from the fees are deposited in the Account for Verification of Insurance and used to carry out the provisions of law relating to proof of insurance for motor vehicles. ~~This~~ **Section 1.5 of this bill** revises the manner in which the money in the Account may be used so that it may be used, within the limits of legislative appropriation, only to pay for expenses related to the operation of the Department of Motor Vehicles. **Section 2 of this bill repeals a provision which requires the State Controller to transfer annually any amount in the Account which exceeds \$500,000 to the State Highway Fund. Section 1 of this bill reenacts the repealed provision effective July 1, 2011.**

Sections 1.3 and 1.7 of this bill revise provisions governing the renewal of registration of motor vehicles.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds \$500,000.

Sec. 1.3. NRS 482.280 is hereby amended to read as follows:

482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall

mail to each holder of a certificate of registration ~~an application~~ **a notification** for renewal of registration for the following period of registration. The ~~applications~~ **notifications** must be mailed by the Department in sufficient time to allow all applicants to mail the ~~applications~~ **notifications** to the Department **or to renew the certificate of registration at a kiosk or authorized inspection station or via the Internet or an interactive response system** and to receive new certificates of registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the ~~application~~ **notification** to any agent or office of the Department.

2. ~~An application~~ **A notification:**

- (a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;
 - (b) Submitted to the Department pursuant to NRS 482.294; or
 - (c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,
- ↪ must include, if required, evidence of compliance with standards for control of emissions.

3. The Department shall ~~insert in each application~~ **include with each notification** mailed pursuant to subsection 1:

- (a) The amount of the governmental services tax to be collected for the county pursuant to the provisions of NRS 482.260.
- (b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.
- (c) A statement which informs the applicant that, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered ~~it~~ **which must be provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State.**

4. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

~~Section 1.~~ **Sec. 1.5.** NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:

(a) A fee of \$250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

↪ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account ~~must~~ **may only** be used ~~to carry out the provisions of NRS 485.313 to 485.318, inclusive.~~ **by the Department of Motor Vehicles, within the limits of legislative appropriation, to pay for expenses related to the operation of the Department.**

7. For every travel trailer, a fee for registration of \$27.

8. For every permit for the operation of a golf cart, an annual fee of \$10.

9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of \$33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

Sec. 1.7. NRS 485.137 is hereby amended to read as follows:

485.137 1. The department shall publish a leaflet which summarizes and explains the requirements and provisions of this chapter.

2. The department shall:

(a) Make copies of the leaflet available without charge to all licensed drivers in this State, to all public school pupils who are of driving age, and to the public.

(b) Cause a copy of the leaflet to be delivered to each applicant for a new registration of a vehicle.

(c) Enclose a copy of the leaflet with each ~~application for a~~ **notification for** renewal of registration of a vehicle which is mailed to the applicant pursuant to law.

Sec. 2. NRS 482.4805 is hereby repealed.

Sec. 3. 1. This section and sections 1.3 to 2, inclusive, of this act become effective on July 1, 2009.

2. Section 1 of this act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

482.4805 Transfer of money from Account for Verification of Insurance to State Highway Fund. On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds \$500,000.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 549.

Bill read second time and ordered to third reading.

Assembly Bill No. 555.

Bill read second time and ordered to third reading.

Assembly Bill No. 556.

Bill read second time and ordered to third reading.

Assembly Bill No. 557.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 810.

AN ACT making a supplemental appropriation to the Department of Corrections for unanticipated shortfalls in Fiscal Year 2008-2009 for increased costs at various facilities; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Corrections the sum of ~~[\$6,234,090]~~ **\$2,872,874** for increased costs at various facilities to be allocated as follows:

1. ~~For the terminal leave and Public Employees' Retirement System credit (NRS 286.3007) payments as a result of facility closures for Fiscal Year 2008-2009, the sum of \$3,860,870 allocated as follows:~~

- ~~(a) Prison Medical Care \$64,967~~
- ~~(b) Nevada State Prison \$3,563,809~~
- ~~(c) Tonopah Conservation Camp \$232,094~~

~~2.]~~ For projected shortfalls in the utility budget for the Fiscal Year 2008-2009, the sum of ~~[\$2,373,220]~~ **\$875,878** allocated as follows:

- (a) Prison Medical Care ~~[\$24,673]~~ **\$19,809**
- (b) Warm Springs Correctional Center ~~[\$11,490]~~ **\$48,537**
- (c) Northern Nevada Correctional Center..... ~~[\$379,938]~~ **\$322,167**
- (d) ~~Nevada State Prison \$6,499~~
- ~~(e)]~~ Stewart Conservation Camp..... ~~[\$30,753]~~ **\$28,872**
- ~~[(f)]~~ (e) Pioche Conservation Camp..... ~~[\$96,653]~~ **\$40,873**
- ~~[(g)]~~ Northern Nevada Restitution Center \$4,193
- ~~(h) Three Lakes Valley Conservation Camp \$19,545~~
- ~~[(i)]~~ (f) Southern Desert Correctional Center ~~[\$519,323]~~ **\$165,831**
- ~~[(j)]~~ Wells Conservation Camp \$30,239
- ~~(k) Humboldt Conservation Camp \$36,605~~
- ~~(l) Ely Conservation Camp \$25,962~~
- ~~(m) Jean Conservation Camp \$57,862~~
- ~~(n)]~~ (g) Ely State Prison ~~[\$302,963]~~ **\$65,852**
- ~~[(o)]~~ Carlin Conservation Camp \$12,478
- ~~(p) Tonopah Conservation Camp \$34,846~~
- ~~[(q)]~~ (h) Lovelock Correctional Center ~~[\$258,297]~~ **\$183,937**
- ~~[(r)]~~ Casa Grande Transitional Housing \$15,959
- ~~(s) Florence McClure Women's Correctional Center \$40,128~~
- ~~(t) High Desert State Prison \$464,814]~~

2. For projected shortfalls in the revenue budget for the Fiscal Year 2008-2009, the sum of \$600,320 allocated as follows:

- (a) Warm Springs Correctional Center \$47,394
- (b) Stewart Conservation Camp \$7,788
- (c) Pioche Conservation Camp \$709
- (d) Southern Desert Correctional Center \$11,007
- (e) Ely State Prison \$16,268
- (f) Lovelock Correctional Center \$40,552
- (g) Casa Grande Transitional Housing \$476,602

3. For projected shortfalls in the personnel budget for the Fiscal Year 2008-2009, the sum of \$708,564 allocated as follows:

- (a) Prison Medical Care \$138,333
- (b) Warm Springs Correctional Center \$64,142
- (c) Northern Nevada Correctional Center \$202,258

(d) Ely State Prison..... \$303,831

4. For projected shortfalls in the operating budget for the Fiscal Year 2008-2009, the sum of \$6,414 for Ely State Prison.

5. For projected shortfalls in the maintenance budget for the Fiscal Year 2008-2009, the sum of \$8,815 for Ely State Prison.

6. For projected shortfalls in the inmate-driven budget for the Fiscal Year 2008-2009, the sum of \$672,883 allocated as follows:

(a) Prison Medical Care \$170,371

(b) Warm Springs Correctional Center \$9,886

(c) Southern Desert Correctional Center \$492,626

Sec. 2. The appropriation made in section 1 of this act is supplemental to that made by section 23 of chapter 350, Statutes of Nevada 2007, at page 1698.

Sec. 3. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 560.

Bill read second time and ordered to third reading.

Senate Bill No. 17.

Bill read second time.

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

Amendment No. 746.

AN ACT relating to health care; revising provisions governing the retention and destruction of health care records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that certain boards post a statement on their Internet websites that the health care records of patients who are less than ~~25~~ **23** years of age may not be destroyed and that the health care records of other patients may be destroyed after ~~7~~ **5** years.

Section 2 of this bill: ~~increases from 5 years to 7 years the period of time that a provider of health care must retain the health care records of patients who are 25 years of age or older and requires the provider to notify a patient~~

~~before destroying his health care records upon expiration of the period. (NRS 629.051) Section 2 also;~~ (1) requires that certain disclosures regarding destruction of records be provided to patients; (2) prohibits the destruction of health care records for a person who is less than ~~25~~ 23 years of age ~~;~~ until the person attains the age of 23 years; and (3) requires the State Board of Health to adopt regulations relating to the required disclosures.

~~Section 3 of this bill requires that individuals licensed by the Board of Medical Examiners who close an office in this State keep the Board apprised in writing of the location of medical records kept by that office for at least 7 years thereafter. (NRS 630.254)~~

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health and each board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, ~~639,~~ 640, 640A, 640B, 640C, 641, 641A, 641B or 641C of NRS shall post on its website on the Internet, if any, a statement which discloses that:

(a) Pursuant to the provisions of subsection 7 of NRS 629.051 ~~;~~ the:

(1) The health care records of a person who is less than ~~25~~ 23 years of age may not be destroyed; and

(2) The health care records of a person who has attained the age of 23 years may be destroyed for those records which have been retained for at least 5 years or for any longer period provided by federal law; and

(b) Except as otherwise provided in subsection 7 of NRS 629.051 and unless a longer period is provided by federal law, the health care records of a patient who is 23 years of age or older may be destroyed after ~~7~~ 5 years pursuant to subsection 1 of NRS 629.051.

2. The State Board of Health shall adopt regulations prescribing the contents of the statements required pursuant to this section.

Sec. 2. NRS 629.051 is hereby amended to read as follows:

629.051 *1.* Except as otherwise provided in subsection 7 and in regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory ~~;~~ and unless a longer period is provided by federal law, each provider of health care shall retain the health care records of his patients as part of his regularly maintained records for 5 ~~7~~ years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc, which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which limits access to those records.

2. A provider of health care shall post, in a conspicuous place in each location at which the provider performs health care services, a sign which discloses to patients that their health care records may be destroyed after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A provider of health care shall not destroy the health care records of a person who is less than ~~25~~ 23 years of age on the date of the proposed destruction of the records. The health care records of a person who has attained the age of 23 years may be destroyed in accordance with this section for those records which have been retained for at least 5 years or for any longer period provided by federal law.

8. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 3. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board in writing of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board in writing of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed \$250; and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board in writing of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board in writing of this occurrence within 14 days after the closure; and

(b) For a period of 5 ~~7~~ years thereafter , *unless a longer period of retention is provided by federal law*, keep the Board apprised in writing of the location of the medical records of his patients.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 47.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 724.

AN ACT relating to state personnel; authorizing the Director of the Department of Corrections to request that certain employees of the Department submit to random drug and alcohol screening tests; authorizing a state law enforcement agency to establish a substantially similar program of testing; providing that an employee's refusal to submit to such a screening test may result in his dismissal or in other disciplinary action being taken against him; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, appointing authorities at the state level are prohibited from hiring an applicant for a position of employment that affects the public safety unless the appointing authority first requires the applicant to submit to a screening test to detect the presence of a controlled substance. (NRS 284.4066) Existing law also authorizes such an appointing authority to request that an employee submit to a screening test to detect the presence of alcohol or drugs if: (1) the appointing authority reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his ability to perform his duties safely and efficiently; or (2) the employee has performed certain acts relating to the discharge of a firearm or the operation of a motor vehicle. (NRS 284.4065) The provisions of existing law do not currently authorize an appointing authority at the state level to conduct random screening tests of its employees to detect the presence of alcohol or drugs.

Section 5 of this bill authorizes the Director of the Department of Corrections to request that an employee of the Department who is in a position that may affect public safety or security in the workplace submit to a screening test to detect the presence of alcohol or drugs and allows the Director to select the employee at random for the purpose of such testing. An employee of the Department may refuse to submit to such a screening test, but the refusal may result in his dismissal or in other disciplinary action being taken against him. **An employee of the Department who submits to such a screening test and who tests positive for alcohol or drugs for the**

first time is not subject to dismissal or other disciplinary action if he accepts a referral to an employee assistance program and successfully completes a treatment plan. The Department is required to pay the cost of such testing except for independent testing that an employee may elect to undergo at his own expense. **Section 4** of this bill authorizes any state law enforcement agency to establish a program of testing that is substantially similar to the program of the Department of Corrections described in **section 5**.

The United States Supreme Court has held that a program which compels governmental employees to submit to drug screening tests is a “search” within the meaning of the Fourth Amendment of the United States Constitution (see also Nev. Const. Art. 1, § 18) because drug screening invades an employee’s reasonable expectation of privacy. (*National Treasury Employees Union v. Von Raab*, 489 U.S. 656, 665, 109 S. Ct. 1384, 1390 (1989); *Skinner v. Railway Labor Executives’ Association*, 489 U.S. 602, 617-18, 109 S. Ct. 1402, 1413 (1989)) However, so long as drug screening serves a special governmental interest beyond the need for law enforcement, the intrusion on an employee’s right to privacy is justified without a warrant, probable cause or individualized suspicion. (*Von Raab*, 489 U.S. at 665-66, 109 S. Ct. at 1390-91; *Skinner*, 489 U.S. at 620-21, 109 S. Ct. at 1415) Various courts have upheld the random drug testing of employees which served the government’s interest in preserving public and workplace safety in contexts such as the testing of employees who: (1) are correctional officers (*Taylor v. O’Grady*, 888 F.2d 1189 (7th Cir. 1989)); (2) work in a nuclear facility (*International Brotherhood of Electrical Workers, Local 1245 v. United States Nuclear Regulatory Commission*, 966 F.2d 521 (9th Cir. 1992)); or (3) are civilian workers of the Navy who had access to classified information (*AFGE Local 1533 v. Cheney*, 944 F.2d 503 (9th Cir. 1993)).

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

Section 1. NRS 284.4063 is hereby amended to read as follows:

284.4063 Except as otherwise provided in **subsections 3 and 6 of section 4 of this act, subsections 3 and 6 of section 5 of this act and** subsection 5 of NRS 284.4065, an employee who:

1. Fails to notify his supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of his duties;

2. Fails or refuses to submit to a screening test as requested by [a] :

(a) A state agency pursuant to subsection 1 or 2 of NRS 284.4065; [or]

(b) **The chief administrator of a state law enforcement agency pursuant to section 4 of this act; or**

(c) **The Director of the Department of Corrections pursuant to section 5 of this act; or**

3. After taking a screening test which indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by his appointing authority, that he had taken the controlled substance as directed pursuant to a current and lawful prescription issued in his name,

➔ is subject to disciplinary action.

Sec. 2. NRS 284.4065 is hereby amended to read as follows:

284.4065 1. Except as otherwise provided in subsection 2 ~~§~~ **and sections 4 and 5 of this act**, an appointing authority may request **that** an employee ~~§~~ submit to a screening test only if the appointing authority:

(a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his ability to perform his duties safely and efficiently;

(b) Informs the employee of the specific facts supporting its belief pursuant to paragraph (a), and prepares a written record of those facts; and

(c) Informs the employee in writing:

(1) Of whether the test will be for alcohol or drugs, or both;

(2) That the results of the test are not admissible in any criminal proceeding against him; and

(3) That he may refuse the test, but that his refusal may result in his dismissal or in other disciplinary action being taken against him.

2. An appointing authority may request **that** an employee ~~§~~ submit to a screening test if the employee:

(a) Is a law enforcement officer and, during the performance of his duties, he discharges a firearm, other than by accident; or

(b) During the performance of his duties, drives a motor vehicle in such a manner as to cause bodily injury to himself or another person or substantial damage to property.

➔ For the purposes of this subsection, the Commission shall, by regulation, define the term “substantial damage to property.”

3. An appointing authority may place an employee who submits to a screening test **pursuant to subsection 1 or 2** on administrative leave with pay until the appointing authority receives the results of the test.

4. An appointing authority shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after it receives those results.

5. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the appointing authority fails to comply with the provisions of this section.

6. An appointing authority shall not use a screening test to harass an employee.

Sec. 3. NRS 284.4068 is hereby amended to read as follows:

284.4068 Except as otherwise provided in NRS 239.0115, the results of a screening test taken pursuant to *section 4 or 5 of this act or* NRS 284.4061 to 284.407, inclusive, are confidential and:

1. Are not admissible in a criminal proceeding against the person tested;
2. Must be securely maintained by the appointing authority or his designated representative separately from other files concerning personnel; and
3. Must not be disclosed to any person, except:
 - (a) Upon the written consent of the person tested;
 - (b) As required by medical personnel for the diagnosis or treatment of the person tested ~~if~~ if he is physically unable to give his consent to the disclosure;
 - (c) As required pursuant to a properly issued subpoena;
 - (d) When relevant in a formal dispute between the appointing authority and the person tested; or
 - (e) As required for the administration of a plan of benefits for employees.

Sec. 4. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a state law enforcement agency elects to establish a program as described in this section, the chief administrator of the agency may:

(a) Request that an employee of the agency submit to a screening test if the employee is in a position that, as determined in accordance with regulations adopted by the chief administrator, may affect public safety or safety in the workplace; and

(b) Use a method of random selection to determine which such employees of the agency will be subject to a request to submit to a screening test. Any method of random selection so used must be developed ~~for supervised, or both, by the Department of Information Technology~~ and conducted by a reputable business to ensure the integrity of the selection process.

2. If a chief administrator requests that an employee submit to a screening test pursuant to this section, the chief administrator shall inform the employee in writing:

- (a) Of whether the test will be for alcohol or drugs, or both;***
- (b) That the results of the test are not admissible in any criminal proceeding against him; and***
- (c) That he may refuse to submit to the test, but that, except as otherwise provided in subsections 3 and 6, his refusal may result in his dismissal or in other disciplinary action being taken against him.***

3. An employee of a state law enforcement agency who is asked to submit to a screening test pursuant to this section may, without cause, refuse to submit to the test. However, the refusal of an employee to submit to a screening test as described in this subsection:

(a) May be exercised by the employee only one time during the period in which he is employed by the agency; and

(b) May result in disciplinary action being taken against him unless he accepts a referral to ~~and successfully completes~~ an employee assistance program, ~~+~~ and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to his employing agency.

4. A chief administrator may place an employee who submits to a screening test pursuant to this section on administrative leave with pay until the applicable state law enforcement agency receives the results of the test.

5. A chief administrator shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after the chief administrator receives those results.

6. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the applicable chief administrator fails to comply with the provisions of this section.

7. An employee testing positive in a screening test for the first time shall not be subject to dismissal or other disciplinary action being taken against him if the employee accepts a referral to an employee assistance program and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to his employing agency.

8. A chief administrator shall not use a screening test to harass an employee.

~~+~~ 9. The provisions of NRS 284.4067 apply to a screening test requested by a chief administrator pursuant to this section. In addition to the requirements set forth in NRS 284.4067, the chief administrator shall ensure that the handling and laboratory work related to any screening test requested pursuant to this section are carried out by a reputable business that specializes in the analysis of blood and urine.

~~9.~~ 10. *Except as otherwise provided in paragraphs (a) and (b) of subsection 5 and subsection 3 of NRS 284.4067, a state law enforcement agency shall pay for all screening tests conducted pursuant to this section.*

~~10.~~ 11. *The provisions of this section do not alter, limit or otherwise affect the duty or authority of a chief administrator or a state law enforcement agency to cause screening tests to be conducted pursuant to NRS 284.406 to 284.407, inclusive.*

~~11.~~ 12. *The chief administrator of a state law enforcement agency that elects to establish a program as described in this section:*

(a) *Shall adopt regulations setting forth the classifications of employees who may be subject to screening tests requested by the chief administrator pursuant to subsection 1.*

(b) *May adopt any other regulations that he deems necessary or convenient to carry out the provisions of this section.*

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

(a) *"Chief administrator" means the executive and administrative head of a state law enforcement agency.*

(b) *"Screening test" has the meaning ascribed to it in NRS 284.4061.*

(c) *"State law enforcement agency" means an agency, office or bureau of this State, the primary duty of which is to enforce the law. The term includes, without limitation, the Department of Public Safety.*

Sec. 5. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may:

(a) *Request that an employee of the Department submit to a screening test if the employee is in a position that, as determined in accordance with regulations adopted by the Director, may affect public safety or safety in the workplace; and*

(b) *Use a method of random selection to determine which such employees of the Department of Corrections will be subject to a request to submit to a screening test. Any method of random selection so used must be developed ~~for supervised, or both, by the Department of Information Technology~~ and conducted by a reputable business to ensure the integrity of the selection process.*

2. If the Director requests that an employee submit to a screening test pursuant to this section, the Director shall inform the employee in writing:

(a) *Of whether the test will be for alcohol or drugs, or both;*

(b) *That the results of the test are not admissible in any criminal proceeding against him; and*

(c) *That he may refuse to submit to the test, but that, except as otherwise provided in subsections 3 and 6, his refusal may result in his dismissal or in other disciplinary action being taken against him.*

3. An employee of the Department who is asked to submit to a screening test pursuant to this section may, without cause, refuse to submit

to the test. However, the refusal of an employee to submit to a screening test as described in this subsection:

(a) May be exercised by the employee only one time during the period in which he is employed by the Department; and

(b) May result in disciplinary action being taken against him unless he accepts a referral to ~~and successfully completes~~ an employee assistance program, ~~+~~ and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to the Department.

4. The Director may place an employee who submits to a screening test pursuant to this section on administrative leave with pay until the Department receives the results of the test.

5. The Director shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after the Director receives those results.

6. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the Director fails to comply with the provisions of this section.

7. An employee testing positive in a screening test for the first time shall not be subject to dismissal or other disciplinary action being taken against him if the employee accepts a referral to an employee assistance program and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to the Department.

8. The Director shall not use a screening test to harass an employee.

~~9.~~ 9. The provisions of NRS 284.4067 apply to a screening test requested by the Director pursuant to this section. In addition to the requirements set forth in NRS 284.4067, the Director shall ensure that the handling and laboratory work related to any screening test requested pursuant to this section are carried out by a reputable business that specializes in the analysis of blood and urine.

~~10.~~ 10. Except as otherwise provided in paragraphs (a) and (b) of subsection 5 and subsection 3 of NRS 284.4067, the Department shall pay for all screening tests conducted pursuant to this section.

~~11.~~ 11. The provisions of this section do not alter, limit or otherwise affect the duty or authority of the Director or the Department to cause

screening tests to be conducted pursuant to NRS 284.406 to 284.407, inclusive.

~~1117~~ **12. The Director:**

(a) Shall adopt regulations setting forth the classifications of employees who may be subject to screening tests requested by the Director pursuant to subsection 1.

(b) May adopt any other regulations that he deems necessary or convenient to carry out the provisions of this section.

~~1127~~ **13. As used in this section, "screening test" has the meaning ascribed to it in NRS 284.4061.**

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

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 84.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 723.

AN ACT relating to sentencing; authorizing a city to create a department of alternative sentencing; revising provisions relating to the administration of certain programs of supervision for persons with suspended sentences or persons sentenced to residential confinement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county to create a department of alternative sentencing. (Chapter 211A of NRS) **Sections 1-6** of this bill authorize the governing body of a county or a city to create a department of alternative sentencing.

Existing law provides for the administration of programs of supervision for certain persons with suspended sentences and persons sentenced to residential confinement by a justice court or municipal court. (NRS 4.372, 5.052) ~~[Section 7 of this bill authorizes the chief of the department of alternative sentencing of a city located within the county in which a justice court is located to administer the program of supervision for persons with sentences suspended by the justice court and persons sentenced to residential confinement by the justice court if the county does not have a department of alternative sentencing and such a department exists within any city located within that county.]~~ **Section 8** of this bill requires the chief of the department of alternative sentencing of the city in which a municipal court is located to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city has a department of alternative sentencing. Further, **section 8** ~~requires the chief of the department of alternative~~

~~sentencing of the county in which it is located]~~ **authorizes the municipal court [is located] to contract with a qualified person** to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city in which the municipal court is located does not have a department of alternative sentencing ~~and such a department exists within the county.]~~
Section 7 of this bill makes technical changes to provide consistency with the amendments made to the statutory provisions of section 8 of this bill.

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

Section 1. Chapter 211A of NRS is hereby amended by adding thereto a new section to read as follows:

“Governing body” means the governing body of a county or a city.

Sec. 2. NRS 211A.010 is hereby amended to read as follows:

211A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 211A.020 to 211A.070, inclusive, **and section 1 of this act** have the meanings ascribed to them in those sections.

Sec. 3. NRS 211A.080 is hereby amended to read as follows:

211A.080 The ~~board]~~ **governing body** of each county **or city** may create a department of alternative sentencing to provide a program of supervision for probationers.

Sec. 4. NRS 211A.100 is hereby amended to read as follows:

211A.100 The chief:

1. Must be appointed by the action of a majority of the ~~board.]~~ **governing body.**

2. Must have at least 5 years of experience, with an increasing level of responsibility, in the field of law enforcement, corrections or supervision of persons on probation or parole.

3. Is in the unclassified service of the county.

Sec. 5. NRS 211A.110 is hereby amended to read as follows:

211A.110 The chief shall:

1. Hire assistant alternative sentencing officers and other employees as necessary to carry out the responsibilities of the department within the limitations of appropriations to the department by the ~~board.]~~ **governing body.**

2. Direct the work of all assistants and employees.

3. Be responsible for the fiscal affairs of the department.

4. Be responsible for the completion of any report regarding an investigation or the supervision of a probationer and any report requested by the court or the ~~board.]~~ **governing body.**

5. After reviewing and considering recognized correctional programs and courses for training correctional staff, develop and provide to assistants and other employees training in methods and policies regarding the investigation

and supervision of probationers, the recordkeeping of the department and the reporting on matters relating to probationers.

6. Submit a written report, on or before January 31 of each year, to the ~~board~~ **governing body** and to each court having jurisdiction over a probationer under his supervision, setting forth in detail the activities of the department during the previous calendar year. The report must include statistical data concerning the department's activities and operations and the probationers who were under the supervision of the department during that period.

7. Advise the court of any probationer who has violated the terms or conditions of his suspended sentence or residential confinement.

Sec. 6. NRS 211A.130 is hereby amended to read as follows:

211A.130 1. The ~~board~~ **governing body** shall adopt a schedule of fees to be imposed on probationers to defray the cost of the supervision of a probationer. The schedule adopted must provide for a monthly fee of not less than \$20 for the supervision of a probationer.

2. Except as otherwise provided in subsection 3:

(a) The department shall charge each probationer the fee set forth in the schedule adopted pursuant to subsection 1.

(b) Payment of the required fee by the probationer is a condition of his suspended sentence or residential confinement.

3. If the chief determines that payment of the fee would result in economic hardship to a probationer, the chief may waive the imposition of, or reduce the amount of, the fee. If the chief waives the imposition of the fee, payment of the fee by the probationer does not constitute a condition of his suspended sentence or residential confinement.

Sec. 7. NRS 4.372 is hereby amended to read as follows:

4.372 1. If the county in which a justice court is situated ~~does not have~~ **has** a department of alternative sentencing, the ~~justice court may contract with a qualified person to~~ **chief of that department shall** administer a program of supervision for persons whose sentences have been suspended pursuant to NRS 4.373 or who are sentenced to a term of residential confinement pursuant to NRS 4.3762.

2. If the county in which the justice court is situated ~~has~~ **does not have** a department of alternative sentencing ~~and~~:

~~(a) Any city located within the county in which the justice court is situated has a department of alternative sentencing; the~~ **the**

~~(1) The chief of [that] [the department] [shall] [of alternative sentencing of such a city]~~ **justice court may contract with a qualified person to** administer the program of supervision ~~;~~ **or**

~~(2) If the chief of the department of alternative sentencing of such a city does not wish to administer the program of supervision, the justice court may contract with a qualified person to administer the program of supervision.~~

~~(b) No city located within the county in which the justice court is situated has a department of alternative sentencing, the justice court may contract with a qualified person to administer the program of supervision.]~~

Sec. 8. NRS 5.052 is hereby amended to read as follows:

5.052 **1.** If the ~~[county]~~ **city** in which a municipal court is situated ~~[does not have]~~ **has** a department of alternative sentencing, the ~~[municipal court may contract with a qualified person to]~~ **chief of that department shall** administer a program of supervision for persons whose sentences have been suspended pursuant to NRS 5.055 or who are sentenced to a term of residential confinement pursuant to NRS 5.076.

2. If the ~~[county]~~ **city** in which the municipal court is situated ~~[has]~~ **does not have** a department of alternative sentencing, ~~[and:~~

~~(a) The county in which the municipal court is situated has a department of alternative sentencing,]~~ the ~~[chief of]~~ ~~[that]~~ ~~[the department of alternative sentencing of the county shall]~~ **municipal court may contract with a qualified person to** administer the program of supervision.

~~[(b) The county in which the municipal court is situated does not have a department of alternative sentencing, the municipal court may contract with a qualified person to administer the program of supervision.]~~

Sec. 9. NRS 211A.030 is hereby repealed.

TEXT OF REPEALED SECTION

211A.030 "Board" defined. "Board" means a board of county commissioners.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 128.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 732.

AN ACT relating to property; requiring certain persons to record foreclosure sales and sales of real property under a deed of trust within a certain period of time after the sale; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a trustee to execute a power of sale on real property after a breach of an obligation or payment of debt due to the trustee.

Section 1 of this bill amends existing law to: (1) require the ~~[beneficiary of the deed of trust]~~ **trustee** to ~~[cause the recordation of]~~ **record** the sale of the property with the appropriate office of the county recorder within 30 days after the date of the sale **or deliver, within 20 days after the date of the sale, the deed to the successful bidder, who must then record the deed with the appropriate office of the county recorder within 10 days after**

the date of delivery; and (2) make the ~~beneficiary~~ successful bidder liable for certain damages for failure to cause such recordation. (NRS 107.080)

Existing law provides for a person to proceed on an action for the recovery of any debt or for the enforcement of any right secured by a mortgage or other lien upon real estate. **Section 2** of this bill amends existing law to require the sheriff who conducted a foreclosure sale pursuant to such an action to record the sale with the appropriate office of the county recorder within 30 days after the date of the sale. (NRS 40.430)

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

Section 1. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, 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) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, 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, or his successor in interest, 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) 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 his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) 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, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must 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.

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 period 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 and any other person entitled to notice pursuant to this section 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 three public places of the township or city where the property is situated and where the property is to be sold; and

(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.

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 his successors in interest without equity or right of redemption. A sale made pursuant to this section may 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;

(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. 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.

8. ~~Within 30 days after~~ After a sale of property is conducted pursuant to this section, the ~~beneficiary~~ trustee shall ~~cause the~~;

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale ~~(to be recorded)~~ 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.

9. If the ~~beneficiary~~ successful bidder fails to ~~cause the recordation of~~ record the trustee's deed upon sale pursuant to ~~this subsection,~~ paragraph (b) of subsection 8, the ~~beneficiary~~ 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 ~~the~~ 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 his failure to comply with the provisions of ~~this~~ subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

Sec. 2. NRS 40.430 is hereby amended to read as follows:

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

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

3. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

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

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

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

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

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

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

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

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

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

(h) To draw under a letter of credit.

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

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

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

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

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

(n) Pursuant to NRS 40.507 or 40.508.

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

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

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 195.

Bill read second time.

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

Amendment No. 717.

AN ACT relating to industrial insurance; revising provisions relating to the denial or acceptance of a claim for compensation; revising provisions relating to examinations and permanent partial disabilities; increasing certain death benefits; revising provisions relating to the imposition of administrative fines and benefit penalties for certain violations; establishing continuous care coverage as a line of insurance for which a producer may be licensed; revising provisions for the issuance of a certificate of registration as an administrator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the duty of an insurer to accept or deny a claim for compensation. (NRS 616C.065) Section 2 of this bill provides that the failure of an insurer to indicate the acceptance or denial of a claim for a part of the body or condition does not constitute a denial or acceptance thereof.

~~[This]~~ Section 3 of this bill requires that the Fifth Edition, rather than the most recent edition, of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* must be applied in all examinations for a permanent partial disability.

Section 4 of this bill revises provisions governing the denial of compensation due to discharge from employment for misconduct.

Existing law authorizes a hearing officer and appeals officer to order a medical examination of an injured employee to determine the injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied. (NRS 616C.330, 616C.360) Sections 5 and 6 of this bill authorize a hearing officer or appeals officer to consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.

Section 7 of this bill revises existing law to allow factors other than the degree of physical impairment of the whole man to be considered in calculating the entitlement to compensation for a permanent partial disability involving injury or disease caused by stress.

Section 9 of this bill increases the maximum amount of burial expenses that may be paid as a death benefit from \$5,000 to \$10,000, plus the cost of transporting the remains of the deceased employee.

Section 10 of this bill revises provisions governing the imposition of administrative fines for certain violations by an insurer, organization for

managed care, health care provider, third-party administrator or employer.

Sections 11 and 16 of this bill define and establish continuous care coverage as a line of insurance for which a producer may be licensed. Such coverage includes health insurance and may include insurance for workers' compensation only when issued jointly with and supplemental to the policy of health insurance. Section 14 of this bill specifically provides for the imposition of an administrative fine for a violation of this limitation on the issuance of a policy of workers' compensation insurance sold by a producer of continuous care coverage.

Section 15 of this bill requires the Commissioner of Insurance to obtain final approval from the Department of Business and Industry before issuing a certificate of registration as an administrator. Section 1.5 of this bill requires the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations setting forth the qualifications needed to obtain such final approval.

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

Section 1. NRS 616A.070 is hereby amended to read as follows:

616A.070 "Benefit penalty" means an additional amount of money that is payable to a claimant if the Administrator has determined that a violation of any of the provisions of paragraphs (a) to (e), inclusive, ~~for~~ or (i) of subsection 1 of NRS 616D.120 has occurred.

Sec. 1.5. NRS 616A.400 is hereby amended to read as follows:

616A.400 The Administrator shall:

1. Prescribe by regulation the time within which adjudications and awards must be made.
2. Regulate forms of notices, claims and other blank forms deemed proper and advisable.
3. Prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith.
4. Prescribe by regulation the method for reimbursing an injured employee for expenses necessarily incurred for travel more than 20 miles one way from his residence or place of employment to his destination as a result of an industrial injury.
5. Determine whether an insurer has provided adequate facilities in this State to administer claims and for the retention of a file on each claim.
6. Evaluate the services of private carriers provided to employers in:
 - (a) Controlling losses; and
 - (b) Providing information on the prevention of industrial accidents or occupational diseases.

7. Conduct such investigations and examinations of insurers as he deems reasonable to determine whether any person has violated the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or to obtain information useful to enforce or administer these chapters.

8. **Prescribe by regulation the qualifications for final approval by the Division of an applicant for a certificate of registration as an administrator pursuant to subsection 3 of NRS 683A.08524. The regulations must set forth qualifications which provide for the final approval of those applicants whose approval is in the best interests of the people of this State.**

9. Except with respect to any matter committed by specific statute to the regulatory authority of another person or agency, adopt such other regulations as he deems necessary to carry out the provisions of chapters 616A to 617, inclusive, of NRS.

Sec. 2. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

3. Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

4. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

5. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 4 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

6. The failure of the insurer to indicate the acceptance or denial of a claim for a part of the body or condition does not constitute a denial or acceptance thereof.

7. Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~7.1~~ 8. For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~8.1~~ 9. As used in this section, “certificate of mailing” means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

~~Section 1.1~~ Sec. 3. NRS 616C.110 is hereby amended to read as follows:

616C.110 1. For the purposes of NRS 616B.557, 616B.578, 616B.587, 616C.490 and 617.459 ~~[-~~

~~(a) Not~~, **not** later than August 1, 2003, the Division shall adopt regulations incorporating the American Medical Association’s Guides to the Evaluation of Permanent Impairment, 5th edition, by reference. The regulations:

~~[(1)]~~ (a) Must ~~[become effective on October 1, 2003; and~~

~~(2) Must be applied to all examinations for a permanent partial disability that are conducted on or after October 1, 2003, regardless of the date of the injury, until regulations incorporating the 6th edition by reference have become effective pursuant to paragraph (b).~~

~~(b) Beginning with the 6th edition and continuing for each edition thereafter, the Division shall adopt regulations incorporating the most recent edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment by reference. The regulations:~~

~~(1) Must become effective not later than 18 months after the most recent edition is published by the American Medical Association; and~~

~~(2) provide that the American Medical Association’s Guides to the Evaluation of Permanent Impairment, Fifth Edition, must be applied to all examinations; and~~

~~(b) Must be applied to all examinations for a permanent partial disability that are conducted on or after the effective date of the regulations, regardless of the date of injury . ~~[- until regulations incorporating the next edition by reference have become effective pursuant to this paragraph.]~~~~

2. After adopting the regulations required pursuant to subsection 1, the Division may amend those regulations as it deems necessary, except that the amendments to those regulations:

(a) Must be consistent with the ~~[edition]~~ *Fifth Edition* of the American Medical Association's Guides to the Evaluation of Permanent Impairment ; ~~[most recently adopted by the Division];~~

(b) Must not incorporate any contradictory matter from any other edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment; and

(c) Must not consider any factors other than the degree of physical impairment of the whole man in calculating the entitlement to compensation.

3. If the ~~[edition]~~ *Fifth Edition* of the American Medical Association's Guides to the Evaluation of Permanent Impairment ~~[most recently adopted by the Division]~~ contains more than one method of determining the rating of an impairment, the Administrator shall designate by regulation the method from that edition which must be used to rate an impairment pursuant to NRS 616C.490.

Sec. 4. NRS 616C.232 is hereby amended to read as follows:

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. Discharge from employment for reasons other than gross misconduct does not limit an injured employee's entitlement to receive benefits for temporary total disability.

Sec. 5. NRS 616C.330 is hereby amended to read as follows:

616C.330 1. The hearing officer shall:

(a) Except as otherwise provided in subsection 2 of NRS 616C.315, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his receipt of the request at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the hearing officer;

(b) Give notice by mail or by personal service to all interested parties to the hearing at least 15 days before the date and time scheduled; and

(c) Conduct hearings expeditiously and informally.

2. The notice must include a statement that the injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may order an independent medical examination, which must not involve treatment, and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

4. **The hearing officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.**

5. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the hearing officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

~~5~~ 6. The hearing officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

~~6~~ 7. The hearing officer may allow or forbid the presence of a court reporter and the use of a tape recorder in a hearing.

~~7~~ 8. The hearing officer shall render his decision within 15 days after:

- (a) The hearing; or
- (b) He receives a copy of the report from the medical examination he requested.

~~8~~ 9. The hearing officer shall render his decision in the most efficient format developed by the Chief of the Hearings Division of the Department of Administration.

~~9.]~~ 10. The hearing officer shall give notice of his decision to each party by mail. He shall include with the notice of his decision the necessary forms for appealing from the decision.

~~10.]~~ 11. Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

Sec. 6. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. **The appeals officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.**

5. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of

the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

~~5.4~~ 6. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

~~6.4~~ 7. Any party to the appeal or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

~~7.4~~ 8. The appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

~~8.4~~ 9. The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to give effect to his decision.

Sec. 7. NRS 616C.490 is hereby amended to read as follows:

616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, “disability” and “impairment of the whole man” are equivalent terms.

2. Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee’s disability. Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

(a) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

(b) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor

is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

3. If an insurer contacts the treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.

4. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:

(a) Any previous evaluations performed to determine the extent of any of the employee's disabilities; and

(b) Any previous injury, disease or condition sustained by the employee which is relevant to the evaluation performed pursuant to this section.

→ The notice must be on a form approved by the Administrator and provided to the injured employee by the insurer at the time of the insurer's request.

5. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. ~~Not~~ **Except in the case of claims accepted pursuant to NRS 616C.180, no** factors other than the degree of physical impairment of the whole man may be considered in calculating the entitlement to compensation for a permanent partial disability.

6. The rating physician or chiropractor shall provide the insurer with his evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:

(a) Of the compensation to which he is entitled pursuant to this section; or

(b) That he is not entitled to benefits for permanent partial disability.

7. Each 1 percent of impairment of the whole man must be compensated by a monthly payment:

(a) Of 0.5 percent of the claimant's average monthly wage for injuries sustained before July 1, 1981;

(b) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after July 1, 1981, and before June 18, 1993;

(c) Of 0.54 percent of the claimant's average monthly wage for injuries sustained on or after June 18, 1993, and before January 1, 2000; and

(d) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after January 1, 2000.

→ Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any,

whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.

8. Compensation benefits may be paid annually to claimants who will be receiving less than \$100 a month.

9. Where there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

10. The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

11. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

12. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.

~~Sec. 2.]~~ *Sec. 8.* (Deleted by amendment.)

Sec. 9. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed ~~[\$5,000.]~~ **\$10,000, plus the cost of transporting the remains of the deceased employee.** When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. Except as otherwise provided in subsection 3 and NRS 616C.507, to the surviving spouse of the deceased employee, $66\frac{2}{3}$ percent of the average monthly wage is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage; and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, his proportionate share of 50

percent of the death benefit and, except as otherwise provided in subsection 12, if the child has a guardian, the compensation he is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee, in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 12, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

5. Upon the remarriage of a surviving spouse with children:

(a) The surviving spouse must be paid 2 years' compensation in one lump sum and further benefits must cease; and

(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of $66 \frac{2}{3}$ percent of the average monthly wage.

➔ The provisions of this subsection do not apply to the remarriage of a surviving spouse of a deceased police officer or firefighter if the provisions of NRS 616C.507 apply to the surviving spouse.

6. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his proportionate share of $66 \frac{2}{3}$ percent of the average monthly wage for his support.

7. Except as otherwise provided in subsection 8, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, $33 \frac{1}{3}$ percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, $66 \frac{2}{3}$ percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, his proportionate share of $66 \frac{2}{3}$ percent of the average monthly wage.

8. The aggregate compensation payable pursuant to subsection 7 must not exceed $66 \frac{2}{3}$ percent of the average monthly wage.

9. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury causing his death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount

contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

10. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

11. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to him, funeral expenses are payable in an amount not to exceed ~~[\$5,000.]~~ \$10,000.

12. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of \$3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 13 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, "incompetent" has the meaning ascribed to it in NRS 159.019.

13. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

14. As used in this section, "surviving spouse" means a surviving husband or wife who was married to the employee at the time of the employee's death.

Sec. 10. NRS 616D.120 is hereby amended to read as follows:

616D.120 1. Except as otherwise provided in this section, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator or employer has:

(a) Induced a claimant to fail to report an accidental injury or occupational disease;

(b) Without justification, persuaded a claimant to:

(1) Settle for an amount which is less than reasonable;

(2) Settle for an amount which is less than reasonable while a hearing or an appeal is pending; or

(3) Accept less than the compensation found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 617, inclusive, of NRS;

(c) Refused to pay or unreasonably delayed payment to a claimant of compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay occurs:

(1) Later than 10 days after the date of the settlement agreement or stipulation;

(2) Later than 30 days after the date of the decision of a court, hearing officer, appeals officer or the Division, unless a stay has been granted; or

(3) Later than 10 days after a stay of the decision of a court, hearing officer, appeals officer or the Division has been lifted;

(d) Refused to process a claim for compensation pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(e) Made it necessary for a claimant to initiate proceedings pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(f) Failed to comply with the Division's regulations covering the payment of an assessment relating to the funding of costs of administration of chapters 616A to 617, inclusive, of NRS;

(g) Failed to provide or unreasonably delayed payment to an injured employee or reimbursement to an insurer pursuant to NRS 616C.165; ~~or~~

(h) **Engaged in a pattern of untimely payments to injured employees; or**

(i) Intentionally failed to comply with any provision of, or regulation adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of NRS,

→ the Administrator shall impose an administrative fine of \$1,500 for each initial violation, or a fine of \$15,000 for a second or subsequent violation.

2. Except as otherwise provided in chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator or employer has failed to comply with any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, the Administrator may take any of the following actions:

(a) Issue a notice of correction for:

(1) A minor violation, as defined by regulations adopted by the Division; or

(2) A violation involving the payment of compensation in an amount which is greater than that required by any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto.

↪ The notice of correction must set forth with particularity the violation committed and the manner in which the violation may be corrected. The provisions of this section do not authorize the Administrator to modify or negate in any manner a determination or any portion of a determination made by a hearing officer, appeals officer or court of competent jurisdiction or a provision contained in a written settlement agreement or written stipulation.

(b) Impose an administrative fine for:

(1) A second or subsequent violation for which a notice of correction has been issued pursuant to paragraph (a); or

(2) Any other violation of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, for which a notice of correction may not be issued pursuant to paragraph (a).

↪ The fine imposed must not be greater than \$375 for an initial violation, or more than ~~[\$1,500]~~ \$3,000 for any second or subsequent violation.

(c) Order a plan of corrective action to be submitted to the Administrator within 30 days after the date of the order.

3. If the Administrator determines that a violation of any of the provisions of paragraphs (a) to (e), inclusive, ~~for~~ (h) or (i) of subsection 1 has occurred, the Administrator shall order the insurer, organization for managed care, health care provider, third-party administrator or employer to pay to the claimant a benefit penalty:

(a) Except as otherwise provided in paragraph (b), in an amount that is not less than \$5,000 and not greater than ~~[\$37,500]~~ \$50,000; or

(b) Of \$3,000 if the violation involves a late payment of compensation or other relief to a claimant in an amount which is less than \$500 or which is not more than 14 days late.

4. To determine the amount of the benefit penalty, the Administrator shall consider the degree of physical harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) ~~for~~ (h) or (i) of subsection 1, the amount of compensation found to be due the claimant and the number of fines and benefit penalties, other than a benefit penalty described in paragraph (b) of subsection 3, previously

imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer pursuant to this section. ~~If this is the third violation within 5 years for which a benefit penalty, other than a benefit penalty described in paragraph (b) of subsection 3, has been imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer, the~~ **The** Administrator shall also consider the degree of economic harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) ~~, for~~ (h) **or** (i) of subsection 1. Except as otherwise provided in this section, the benefit penalty is for the benefit of the claimant and must be paid directly to him within 10 days after the date of the Administrator's determination. If the claimant is the injured employee and he dies before the benefit penalty is paid to him, the benefit penalty must be paid to his estate. Proof of the payment of the benefit penalty must be submitted to the Administrator within 10 days after the date of his determination unless an appeal is filed pursuant to NRS 616D.140. Any compensation to which the claimant may otherwise be entitled pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS must not be reduced by the amount of any benefit penalty received pursuant to this subsection. **To determine the amount of the benefit penalty in cases of multiple violations occurring within a certain period of time, the Administrator shall adopt regulations which take into consideration:**

(a) The number of violations within a certain number of years for which a benefit penalty was imposed; and

(b) The number of claims handled by the insurer, organization for managed care, health care provider, third-party administrator or employer in relation to the number of benefit penalties previously imposed within the period of time prescribed pursuant to paragraph (a).

5. In addition to any fine or benefit penalty imposed pursuant to this section, the Administrator may assess against an insurer who violates any regulation concerning the reporting of claims expenditures or premiums received that are used to calculate an assessment ~~and~~ an administrative penalty of up to twice the amount of any underpaid assessment.

6. If:

(a) The Administrator determines that a person has violated any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

(b) The Fraud Control Unit for Industrial Insurance of the Office of the Attorney General established pursuant to NRS 228.420 notifies the Administrator that the Unit will not prosecute the person for that violation, ~~the~~ Administrator shall impose an administrative fine of not more than \$15,000.

7. Two or more fines of \$1,000 or more imposed in 1 year for acts enumerated in subsection 1 must be considered by the Commissioner as evidence for the withdrawal of:

(a) A certificate to act as a self-insured employer.

(b) A certificate to act as an association of self-insured public or private employers.

(c) A certificate of registration as a third-party administrator.

8. The Commissioner may, without complying with the provisions of NRS 616B.327 or 616B.431, withdraw the certification of a self-insured employer, association of self-insured public or private employers or third-party administrator if, after a hearing, it is shown that the self-insured employer, association of self-insured public or private employers or third-party administrator violated any provision of subsection 1.

9. If the Administrator determines that a vocational rehabilitation counselor has violated the provisions of NRS 616C.543, the Administrator may impose an administrative fine on the vocational rehabilitation counselor of not more than \$250 for a first violation, \$500 for a second violation and \$1,000 for a third or subsequent violation.

10. The Administrator may make a claim against the bond required pursuant to NRS 683A.0857 for the payment of any administrative fine or benefit penalty imposed for a violation of the provisions of this section.

Sec. 11. Chapter 681A of NRS is hereby amended by adding thereto a new section to read as follows:

“Continuous care coverage” is the issuance of a policy of insurance for workers’ compensation, as described in paragraph (c) of subsection 1 of NRS 681A.020, issued jointly with and supplemental to a policy for health insurance, as defined in NRS 681A.030, by one or more insurers covering the same individual for the same policy period.

Sec. 12. NRS 681A.010 is hereby amended to read as follows:

681A.010 1. As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 681A.020 to 681A.080, inclusive, ~~shall~~ **and section 11 of this act** have the meanings ascribed to them in ~~NRS 681A.020 to 681A.080, inclusive.~~ **those sections.**

2. It is intended that certain insurance coverages may come within the definitions of two or more kinds of insurance as defined in this chapter, and the inclusion of such coverage within one definition shall not exclude it as to any other kind of insurance within the definition of which such coverage is likewise reasonably includable.

Sec. 13. NRS 681A.020 is hereby amended to read as follows:

681A.020 1. “Casualty insurance” includes:

(a) Vehicle insurance. Insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal, together with insurance against accidental injury to natural persons, irrespective of legal liability of the insured, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance

is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

(b) Liability insurance. Insurance against legal liability for the death, injury or disability of any human being, or for damage to property, including liability resulting from negligence in rendering expert, fiduciary or professional services, ~~and~~ and provisions of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

(c) Workmen's or workers' compensation and employer's liability. Insurance of the obligations accepted by, imposed upon or assumed by employers under law for death, disablement or injury of employees.

(d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing, including supplemental coverage for medical, hospital, surgical and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery or theft by another, and also, insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances or any other valuable papers and documents, resulting from any cause.

(e) Personal property floater. Insurance upon personal effects against loss or damage from any cause.

(f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation and fittings.

(g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery and apparatus of any kind, whether or not insured.

(h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire-extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps and other fire-extinguishing equipment or apparatus.

(i) Credit and mortgage guaranty. Insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured, and insurance of real property mortgage lenders against loss by reason of nonpayment of the mortgage indebtedness.

(j) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators,

except loss or damage by fire, and to make inspection of and issue certificates of inspection upon, elevators.

(k) Congenital defects. Insurance against congenital defects in human beings.

(l) Livestock. Insurance against loss or damage to livestock, and services of a veterinary for such animals.

(m) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event or exhibition against loss from interruption, postponement or cancellation thereof due to death, accidental injury or sickness of performers, participants, directors or other principals.

(n) Miscellaneous. Insurance against any other kind of loss, damage or liability properly a subject of insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the Commissioner as being contrary to law or public policy, including insurance for home protection issued pursuant to NRS 690B.100 to 690B.180, inclusive.

2. Provision of medical, hospital, surgical and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraphs (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler and machinery), ~~f~~ and (j) (elevator) of subsection 1 shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and is not subject to provisions of this Code applicable to life and health insurances.

Sec. 14. Chapter 683A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed as a producer of continuous care coverage shall not sell, solicit or negotiate insurance for workers' compensation unless:

(a) The person is licensed as a producer of casualty insurance; or

(b) The policy of insurance for workers' compensation is sold jointly with and supplemental to a policy of health insurance covering the same individual for the same policy period.

2. A person who violates the provisions of subsection 1 is subject to an administrative fine pursuant to subsection 3 of NRS 683A.201.

Sec. 15. NRS 683A.08524 is hereby amended to read as follows:

683A.08524 1. Except as otherwise provided in subsection 2, ~~f~~ **or 3**, the Commissioner shall issue a certificate of registration as an administrator to an applicant who:

(a) Submits an application on a form prescribed by the Commissioner;

(b) Has complied with the provisions of NRS 683A.08522; and

(c) Pays the fee for the issuance of a certificate of registration prescribed in NRS 680B.010.

2. The Commissioner may refuse to issue a certificate of registration as an administrator to an applicant if the Commissioner determines that the

applicant or any person who has completed an affidavit pursuant to subsection 6 of NRS 683A.08522:

- (a) Is not competent to act as an administrator;
- (b) Is not trustworthy or financially responsible;
- (c) Does not have a good personal or business reputation;
- (d) Has had a license or certificate to transact insurance denied for cause, suspended or revoked in this state or any other state;
- (e) Has failed to comply with any provision of this chapter; or
- (f) Is financially unsound.

3. The Commissioner shall submit the information supplied by an applicant pursuant to subsection 1 to the Division of Industrial Relations of the Department of Business and Industry for final approval in accordance with the regulations adopted pursuant to subsection 8 of NRS 616A.400. Unless the Division provides final approval for the applicant to the Commissioner, the Commissioner shall not issue a certificate of registration as an administrator to the applicant.

Sec. 16. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

- (i) Fixed annuities as a limited line.
- (j) Travel and baggage as a limited line.
- (k) Rental car agency as a limited line.

(l) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to

the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

~~[Sec. 3]~~ **Sec. 17. 1. This section and section 3 of this act becomes become** effective upon passage and approval.

2. Sections 11 to 14, inclusive, and 16 of this act become effective on July 1, 2009.

3. Sections 1, 1.5, 2, 4 to 10, inclusive, and 15 of this act become effective on October 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 799.

AN ACT relating to traffic laws; expanding to certain category I peace officers and certain inspectors in this State the authority for the enforcement of certain traffic laws relating to the weight of certain motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol has authority for the enforcement of certain requirements relating to the size and weight of certain vehicles being operated on the highways of this State. (NRS 484.755) This bill expands that authority to include ~~all~~ law enforcement agencies **in counties with a population of 100,000 or more (currently Washoe and Clark Counties)** in the State and authorizes certain category I peace officers and certain inspectors of the Department of Motor Vehicles and the Department of Public Safety to require the driver of certain vehicles to stop and submit to a weighing of the vehicle.

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

Section 1. NRS 484.755 is hereby amended to read as follows:

484.755 1. Authority for the enforcement of the provisions of NRS 484.744 to 484.757, inclusive, is vested in ~~the~~ ~~[the]~~ ~~[Nevada Highway Patrol]~~ **certain law enforcement agencies in this State.**

2. Any ***category I peace officer***, officer of the Nevada Highway Patrol or ***inspector*** having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales, if they are within 5 miles.

3. Whenever ***an officer of the Nevada Highway Patrol, a category I peace officer or an inspector*** upon weighing a vehicle and load as provided in subsection 2 determines that the weight is unlawful, he may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of the vehicle to those limits permitted under NRS 484.744 to 484.757, inclusive. All materials so unloaded must be cared for by the carrier of the material and at his expense. The ***officer of the Nevada Highway Patrol, category I peace officer or inspector*** may allow the driver of the inspected vehicle to continue on his journey if any overload does not exceed by more than 5 percent the limitations prescribed by NRS 484.744 to 484.757, inclusive, but the penalties provided in NRS 484.757 must be imposed for the overload violation.

4. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by ***an officer of the Nevada Highway Patrol, a category I peace officer or an inspector*** upon a weighing of the vehicle to stop and otherwise comply with the provisions of NRS 484.744 to 484.757, inclusive, is guilty of a misdemeanor.

5. *As used in this section:*

(a) *"Category I peace officer" means a peace officer, as defined in NRS 289.460, in a county whose population is 100,000 or more who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.*

(b) *"Inspector" means an inspector of the Department of Motor Vehicles or the Department of Public Safety who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.*

(c) *"Law enforcement agency" has the meaning ascribed to it in NRS 202.873.*

Sec. 2. 1. On or before December 31, 2010, the chief administrative officer of any law enforcement or other agency authorized to enforce the provisions of NRS 484.755, as amended by section 1 of this act, shall submit to the Director of the Department of Public Safety a report compiling:

(a) The number of officers or inspectors trained by the Nevada Highway Patrol in vehicle weight enforcement;

(b) The number of hours of training given each officer or inspector trained as described in paragraph (a); and

(c) The number of citations issued by those officers or inspectors pursuant to NRS 484.755, as amended by section 1 of this act, after October 1, 2009.

2. On or before January 15, 2011, the Director of the Department of Public Safety shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all the information received pursuant to subsection 1.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 253.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 731.

AN ACT relating to common-interest communities; requiring a member of an executive board of a unit-owners' association who stands to profit personally from a matter before the ~~executive~~ board to disclose and abstain from voting on the matter; requiring a member of an executive board who has a member of his household or relative who stands to profit from a matter before the executive board to disclose before voting on the matter; requiring that bids for an association project be considered and opened at a meeting of the executive board; revising provisions relating to the renting or leasing of units; making provisions authorizing the transient commercial use of units in a planned community in certain circumstances applicable in all counties; revising the provisions relating to the resale package furnished to the purchaser of a unit; increasing the amount of the administrative fine for engaging in certain activity without holding the required certificate or permit; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides additional ethical requirements for members of an executive board of a unit-owners' association by requiring ~~;~~ (1) a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter, ~~and~~ ; and (2) a member who has a member of his household or relative who stands to profit from a matter before the executive board to disclose before voting on the matter. (NRS 116.31185, 116.31187)

With some exceptions, existing law requires an executive board to hold open meetings, including meetings to consider a contract. (NRS 116.31085) **Sections 3 and 5** of this bill require an association that solicits bids for association projects, including, without limitation, projects that involve maintenance, repair, replacement or restoration of any part of the common

elements or which involve services provided to the association, to consider and open the bids during a meeting of the executive board of the association.

Existing law provides for remedial and disciplinary action for any violation of the provisions of chapter 116 of NRS governing common-interest communities which will apply to a violation of **section 2 or 3** of this bill. (NRS 116.745-116.795)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) **Section 6** of this bill provides that unless, at the time a unit's owner purchased his unit, the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. **Section 6** also provides that if ~~before October 1, 2009,~~ a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased ~~;~~ **(1)** that provision of the declaration may not be amended on or after October 1, 2009, to decrease that maximum number or percentage of units which may be rented or leased ~~;~~ **(2) a unit's owner may request a waiver of such provision upon a showing of economic hardship under certain circumstances; and (3) any units owned by the declarant must not be counted or considered in determining the maximum number of units in the common-interest community that may be rented or leased.**

Section 7 of this bill makes the provisions allowing the transient commercial use of units within a planned community that is restricted to residential use in certain circumstances applicable in all counties rather than just in larger counties. (NRS 116.340)

Existing law requires a unit's owner or his authorized agent to furnish to a purchaser a resale package which includes certain documents relating to the association. (NRS 116.4109) **Section 8** of this bill: (1) requires the unit's owner to furnish the resale package at his own expense; and (2) requires the disclosure of any transfer fees, transaction fees or other fees associated with the resale of the unit.

Section 9 of this bill increases the amount of the administrative fine that may be imposed against a person who engages in certain activity without holding the required certificate or permit from \$5,000 to \$10,000. (NRS 116A.900)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:*

- (a) Disclose the matter to the executive board; and*
- (b) Abstain from voting on any such matter.*

2. *A member of an executive board who has a member of his household or any person related to him by blood, adoption or marriage within the third degree of consanguinity or affinity who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall disclose the matter to the executive board before voting on any such matter.*

3. *For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.*

Sec. 3. 1. *If an association solicits bids for an association project, the bids must be opened during a meeting of the executive board.*

2. *As used in this section, "association project" includes, without limitation, a project that involves the maintenance, repair, replacement or restoration of any part of the common elements or which involves the provision of services to the association.*

Sec. 4. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, **and sections 2 and 3 of this act**, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 5. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to **open or consider bids for an association project as defined in section 3 of this act, or to** enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115,

inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; and

(b) Is not entitled to attend the deliberations of the executive board.

5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 6. NRS 116.335 is hereby amended to read as follows:

116.335 1. ~~{Except as otherwise provided in}~~ ***Unless, at the time a unit's owner purchased his unit, the declaration [] prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.***

2. ***Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit,*** an association may not require ~~[a]~~ ***the*** unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

~~[2.]~~ 3. ~~*If [] before October 1, 2009, the*~~ ***a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, that provision of the declaration may not be amended [on or after October 1, 2009,] to***

decrease that maximum number or percentage of units in the common-interest community which may be rented or leased.

4. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

5. Notwithstanding any other provision of law or the declaration to the contrary:

(a) If a unit's owner is prohibited from renting or leasing a unit because the maximum number or percentage of units which may be rented or leased in the common-interest community have already been rented or leased, the unit's owner may seek a waiver of the prohibition from the executive board based upon a showing of economic hardship, and the executive board may grant such a waiver and approve the renting or leasing of the unit.

(b) If the declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, in determining the maximum number or percentage of units in the common-interest community which may be rented or leased, the number of units owned by the declarant must not be counted or considered.

Sec. 7. NRS 116.340 is hereby amended to read as follows:

116.340 1. Except as otherwise provided in subsection 2, ~~in a county whose population is 400,000 or more,~~ a person who owns, or directly or indirectly has an interest in, one or more units within a planned community that are restricted to residential use by the declaration ~~[-]~~ may use that unit or one of those units for a transient commercial use only if:

(a) The governing documents of the association and any master association do not prohibit such use;

(b) The executive board of the association and any master association approve the transient commercial use of the unit, except that such approval is not required if the planned community and one or more hotels are subject to the governing documents of a master association and those governing documents do not prohibit such use; and

(c) The unit is properly zoned for the transient commercial use and any license required by the local government for the transient commercial use is obtained.

2. ~~[In a county whose population is 400,000 or more, a]~~ A declarant who owns, or directly or indirectly has an interest in, one or more units within a planned community under the governing documents of the association that are restricted to residential use by the declaration ~~[-]~~ may use that unit or those units for a transient commercial use during the period that the declarant is offering units for sale within the planned community if such use complies with the requirements set forth in paragraphs (a) and (c) of subsection 1.

3. The association and any master association may establish requirements for the transient commercial use of a unit pursuant to the provisions of this section, including, without limitation, the payment of additional fees that are related to any increase in services or other costs associated with the transient commercial use of the unit.

4. As used in this section:

(a) "Remuneration" means any compensation, money, rent or other valuable consideration given in return for the occupancy, possession or use of a unit.

(b) "Transient commercial use" means the use of a unit, for remuneration, as a hostel, hotel, inn, motel, resort, vacation rental or other form of transient lodging if the term of the occupancy, possession or use of the unit is for less than 30 consecutive calendar days.

Sec. 8. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall, *at the expense of the unit's owner*, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; ~~and~~

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge ~~[-]~~; *and*

(e) *A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.*

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser

before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), ~~(c)~~ (d) *and* (e) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is

situated or, if it is situated in more than one county, within one of those counties.

Sec. 9. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate or permit is required pursuant to this chapter or chapter 116 or 116B of NRS, or any regulation adopted pursuant thereto, if the person does not hold the required certificate or permit or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or ~~[\$5,000.]~~ **\$10,000**, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 or 116B of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 or 116B of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 261.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 748.

AN ACT relating to common-interest ownership; revising the provisions governing the applicability of the Uniform Common-Interest Ownership Act; ~~enacting certain provisions governing master-planned communities;~~ making various other changes relating to common-interest ownership; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes relating to common-interest ownership to: (1) incorporate certain revisions to the Uniform Common-Interest Ownership Act promulgated by the Uniform Law Commission; and (2) eliminate references to the preparation of certain plans regarding certain common-interest communities and condominium hotels.

Sections 2, 3, 6 and 9 of this bill provide that the provisions of the Uniform Act only apply to a nonresidential condominium if the declaration so provides.

Sections 4 and 7 of this bill clarify the applicability of the Uniform Act by revising the definition of "common-interest community" to: (1) reflect the revisions promulgated by the Uniform Law Commission; and (2) clarify that certain agreements to share expenses do not create a common-interest community. (NRS 116.021)

~~[Section 5 of this bill allows a declaration for a common interest community to state that the common interest community is a master-planned community under certain circumstances.]~~

Sections 8 and 10-26 of this bill eliminate references to the preparation of certain plans for certain common-interest communities and condominium hotels. (NRS 116.089, 116.1206, 116.2105, 116.2109, 116.211, 116.2112, 116.2113, 116.2114, 116.2117, 116.345, 116.4103, 116.4109, 116B.225, 116B.295, 116B.350, 116B.365, 116B.760)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Nonresidential condominium" means a condominium in which all units are restricted exclusively to nonresidential use.*

Sec. 3. 1. *The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:*

(a) This entire chapter applies to the condominium;

(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and NRS 116.3116 to 116.31168, inclusive, apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection 2 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 4. 1. An agreement between the associations for two or more common-interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate or other activities specified in the agreement or declarations does not create a separate common-interest community. If the declarants of the common-interest communities are affiliates, the agreement may not unreasonably allocate the costs among those common-interest communities.

2. An agreement between an association and the owner of real estate that is not part of a common-interest community to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate, or other activities specified in the agreement, does not create a separate common-interest community. However, the assessments against the units in the common-interest community required by the agreement must be included in the periodic budget for the common-interest community, and the agreement must be disclosed in all public offering statements and resale certificates required by this chapter.

3. An agreement between the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, road, driveway or well or other similar use does not create a common-interest community unless the owners otherwise agree.

4. As used in this section, "party wall" means any wall or fence constructed along the common boundary line between parcels. The term does not include any shared building structure systems, including, without limitation, foundations, walls and roof structures.

Sec. 5. ~~1. The declaration for a common-interest community may state that it is a master planned community if the declarant has reserved the development right to create at least 1,000 units that may be used for residential purposes and, at the time of the reservation, that the declarant owns or controls more than 500 acres on which the units may be built.~~

~~2. If the requirements of subsection 1 are satisfied, the declaration for the master planned community need not state a maximum number of units and need not contain any of the information required pursuant to paragraphs (c) to (m), inclusive, of subsection 1 of NRS 116.2105, until the declaration is amended pursuant to subsection 3.~~

~~3.—When each unit in a master planned community is conveyed to a purchaser, the declaration must contain:~~

~~(a) A sufficient legal description of the unit and all portions of the master planned community in which any other units have been conveyed to a purchaser; and~~

~~(b) All the information required by paragraphs (c) to (m), inclusive, of subsection 1 of NRS 116.2105 with respect to that real estate.~~

~~4.—The only real estate in a master planned community which is subject to this chapter is units that have been declared or which are being offered for sale and any other real estate described pursuant to subsection 3. Other real estate that is or may become part of the master planned community is only subject to other law and to any other restrictions and limitations that appear of record.~~

~~5.—If the public offering statement conspicuously identifies the fact that the community is a master planned community, the disclosure requirements contained in NRS 116.4101 to 116.412, inclusive, apply only with respect to units that have been declared or are being offered for sale in connection with the public offering statement and to the real estate described pursuant to subsection 3.~~

~~6.—Limitations in this chapter on the addition of unspecified real estate do not apply to a master planned community.~~

~~7.—The period of declarant control of the association for a master planned community terminates in accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded instrument and after giving written notice in a record to all the units' owners, voluntarily surrenders all rights to control the activities of the association.] (Deleted by amendment.)~~

Sec. 6. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 7. NRS 116.021 is hereby amended to read as follows:

116.021 **1.** "Common-interest community" means real estate *described in a declaration* with respect to which a person, by virtue of ~~his~~ *the person's* ownership of a unit, is obligated to pay for *a share of* real estate taxes, insurance premiums, maintenance or improvement of, or services or other expenses related to, common elements, other units or other ~~than that~~ unit. "Ownership" real estate described in that declaration.

2. *The term does not include an agreement described in section 4 of this act.*

3. *For purposes of this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.*

Sec. 8. NRS 116.089 is hereby amended to read as follows:

116.089 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~[and plans]~~ or in the declaration (NRS 116.2109) or, in a cooperative, to complete improvements described in the public offering statement pursuant to subsection 2 of NRS 116.4103;
2. Exercise any developmental right (NRS 116.211);
3. Maintain sales offices, management offices, signs advertising the common-interest community and models (NRS 116.2115);
4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community (NRS 116.2116);
5. Make the common-interest community subject to a master association (NRS 116.212);
6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership (NRS 116.2121); or
7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant's control (NRS 116.31032).

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

- (1) Shall pay the fees required pursuant to NRS 116.31155;
- (2) Shall register with the Ombudsman pursuant to NRS 116.31158;
- (3) Shall comply with the provisions of:
 - (I) NRS 116.31038, 116.31083 and 116.31152; and
 - (II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;
- (4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and
- (5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter *or a part of this chapter* does apply to that planned community ~~[] pursuant to section 3 of this act~~. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that

are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to the declaration, bylaws or plats ~~and plans~~ of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats ~~and plans~~ authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 11. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats, ~~for plans,~~ of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph

(g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common

elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 12. NRS 116.2109 is hereby amended to read as follows:

116.2109 1. Plats ~~and plans~~ are a part of the declaration, and are required for all common-interest communities except cooperatives. Each plat ~~and plan~~ must be clear and legible and contain a certification that the plat ~~for plan~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the common-interest community;

(e) The location and dimensions, *with reference to an established datum*, of any vertical unit boundaries and that unit's identifying number;

(f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on ~~plans~~ *plats* recorded pursuant to subsection ~~[4] 3~~ and that unit's identifying number; and

(g) The location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in subsections 2 and 4 of NRS 116.2102.

3. ~~[To the extent not shown or projected on the] The~~ *plats* ~~[, plans of the units]~~ must show or project any units in which the declarant has reserved the right to create additional units or common elements (paragraph (h) of subsection 1 of NRS 116.2105), identified appropriately.

4. Unless the declaration provides otherwise, *when* the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~and~~, *the elevations* need not be depicted on the *plats*. ~~[and plans of the units.]~~

5. ~~[A declarant shall also provide a plan of development for the common-interest community with its initial phase of development. The declarant shall revise the plan of development with each subsequent phase. The plan of development may show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the common-interest community. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT." The plan of development must also show or project:~~

~~(a) The location and dimensions of all real estate not subject to developmental rights, or subject only to the developmental right to withdraw, and the location and dimensions of all existing improvements within that real estate;~~

~~(b) A sufficient description of any real estate subject to developmental rights, labeled to identify the rights applicable to each parcel; and~~

~~(c) A sufficient description of any real estate in which the units' owners will own only an estate for years, labeled as "leasehold real estate."~~

~~6.] Upon exercising any developmental right, the declarant shall record new or amended plats necessary to conform to the requirements of subsection 2. [and provide new or amended plans of the units and a new or amended plan of development or new certifications of those plans if the plans otherwise conform to the requirements of subsections 3 and 5.~~

~~7.] 6. Each plat must be certified by [an independent] a professional land surveyor. [The plans of the units must be certified by an independent professional engineer or architect. If the plan of development is not certified~~

~~by an independent professional land surveyor or an independent professional engineer or architect, it must be acknowledged by the declarant.]~~

Sec. 13. NRS 116.211 is hereby amended to read as follows:

116.211 1. To exercise any developmental right reserved under paragraph (h) of subsection 1 of NRS 116.2105, the declarant shall prepare, execute and record an amendment to the declaration (NRS 116.2117) and in a condominium or planned community comply with NRS 116.2109. The declarant is the owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection 2, reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by NRS 116.2108.

2. Developmental rights may be reserved within any real estate added to the common-interest community if the amendment adding that real estate includes all matters required by NRS 116.2105 or 116.2106, as the case may be, and, in a condominium or planned community, the plats ~~and plans~~ include all matters required by NRS 116.2109. This provision does not extend the time limit on the exercise of developmental rights imposed by the declaration pursuant to paragraph (h) of subsection 1 of NRS 116.2105.

3. Whenever a declarant exercises a developmental right to subdivide or convert a unit previously created into additional units, common elements, or both:

(a) If the declarant converts the unit entirely to common elements, the amendment to the declaration must convey it to the association or reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain (NRS 116.1107); and

(b) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

4. If the declaration provides, pursuant to paragraph (h) of subsection 1 of NRS 116.2105, that all or a portion of the real estate is subject to a right of withdrawal:

(a) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(b) If any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

Sec. 14. NRS 116.2112 is hereby amended to read as follows:

116.2112 1. Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved and states the reallocations. The amendment must be executed by those units' owners, contain words of conveyance between them, and, on recordation, be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the association.

2. The association:

(a) In a condominium or planned community shall prepare and record plats ~~for plans~~ necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers; and

(b) In a cooperative shall prepare and record amendments to the declaration ~~including any plans,~~ necessary to show or describe the altered boundaries between adjoining units, and their dimensions and identifying numbers.

Sec. 15. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and other provisions of law, upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including in a condominium or planned community the plats, ~~and plans,~~ subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.

Sec. 16. NRS 116.2114 is hereby amended to read as follows:

116.2114 The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the description contained in the original declaration are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats ~~and plans~~ or, in a cooperative, to any representation in the public offering statement.

Sec. 17. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection ~~6~~ 5 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats, ~~and plans,~~ may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 18. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the

planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat ~~for plan~~ of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 19. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat ~~for plan~~ is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 20. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, ~~and plans,~~ the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

- (a) Cancel the contract pursuant to this subsection; or
- (b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

- (a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and
- (b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 116B.225 is hereby amended to read as follows:

116B.225 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~{and plans}~~ or in the declaration;
2. Exercise any developmental right;
3. Maintain sales offices, management offices and signs advertising the condominium hotel and models, provided, however, that the declarant is not required to reserve the right to maintain such offices or signs within the hotel unit or shared components or within any unit owned by the declarant;
4. Use easements through the common elements, shared components or hotel unit for the purpose of making improvements within the condominium hotel;
5. Merge or consolidate a condominium hotel with another condominium hotel; or
6. Appoint or remove any officer of the association or any member of an executive board during any period of declarant's control.

Sec. 23. NRS 116B.295 is hereby amended to read as follows:

116B.295 1. Any provision contained in a declaration, bylaw or other governing document of a condominium hotel that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to a declaration, bylaws or plats ~~{and plans}~~ of any condominium hotel created before January 1, 2008:

(a) If the result accomplished by the amendment was permitted before January 1, 2008, the amendment may be made in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter and was not permitted by law before January 1, 2008, the amendment may be made under this chapter.

Sec. 24. NRS 116B.350 is hereby amended to read as follows:

116B.350 1. Plats ~~and plans~~ are a part of the declaration and are required for all condominium hotels. Each plat ~~and plan~~ must be clear and legible and contain a certification that the plat ~~or plan~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

- (a) The name and a survey of the area which is the subject of the plat;
- (b) A sufficient description of the real estate;
- (c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;
- (d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the condominium hotel;
- (e) The location and dimensions with reference to an established datum of any vertical residential unit boundaries and that unit's identifying number;
- (f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on ~~plans~~ **plats** recorded pursuant to subsection 4 and that unit's identifying number;
- (g) The location and dimensions of the units, shared components and common elements; and
- (h) The location and dimensions of limited common elements, if any, including porches, balconies and patios.

3. Each plat must be certified by ~~an independent~~ **a** professional land surveyor. ~~The plans of the units must be certified by an independent professional engineer or architect.~~

~~4. Plats and plans need not show the location and dimensions of the units' boundaries and their limited common elements if:~~

- ~~(a) The plat shows the location and dimensions of all buildings containing or comprising the units; and~~
- ~~(b) The declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements, if any, allocated to those units.~~

~~5. To the extent not shown or projected on the~~

4. The plats ~~[, plans of the units]~~ must show or project any units in which the declarant has reserved the right to create additional units or common elements, or portions of the shared components or hotel unit, identified appropriately.

~~[6.]~~ **5.** Unless the declaration provides otherwise, *when* the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~and~~, **the elevations** need not be depicted on the plats. ~~[and plans of the units.]~~

~~[7.]~~ **6.** Upon exercising any developmental right, the declarant shall prepare, execute and record new or amended plats necessary to conform to the requirements of this section.

Sec. 25. NRS 116B.365 is hereby amended to read as follows:

116B.365 The existing physical boundaries of a residential unit or a hotel unit are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats . ~~and plans.~~

Sec. 26. NRS 116B.760 is hereby amended to read as follows:

116B.760 1. Except in the case of a sale in which delivery of a public offering statement is required, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of this chapter, the declaration, other than any plats , ~~and plans,~~ the bylaws, the rules or regulations of the association and the hotel unit owner and the information statement required by NRS 116B.765;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by this chapter;

(d) A current year-to-date statement of the shared expenses charged to the units and the projected budget for the shared expenses, either within or as an exhibit to the public offering statement. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to this chapter;

(2) The projected monthly shared expenses for each type of unit, including the amount established as reserves pursuant to this chapter;

(e) A description of any other payments, fees and charges that may be charged by the hotel unit owner, including those that may be charged in order to offset the increased burden placed on the shared components as a result of use of residential units as transient rentals; and

(f) A statement of any unsatisfied judgments or pending legal actions against the association or the hotel unit owner which affect the shared components and the status of any pending legal actions relating to the condominium hotel of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the residential unit owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the residential unit owner or his authorized agent. Cancellation is without penalty, and all payments made by

the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the residential unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the residential unit owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a residential unit owner or his authorized agent, the hotel unit owner shall furnish all of the following to the residential unit owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the residential unit owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the hotel unit owner furnishes the documents and certificate pursuant to subsection 3:

(a) The residential unit owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the residential unit owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the hotel unit owner and included in the documents and certificate.

(b) The hotel unit owner may charge the residential unit owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that the hotel unit owner may charge for preparing the certificate.

(c) The hotel unit owner may charge the residential unit owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the hotel unit owner may not charge the residential unit owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a residential unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the hotel unit owner. If the hotel unit owner fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a residential unit owner or his authorized agent, or upon the request of a purchaser to whom the hotel unit owner has provided a resale package pursuant to this section or his authorized agent, the hotel unit owner shall make the entire study of the reserves of the association or the

shared components reasonably available for the residential unit owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or the hotel unit owner or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 276.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 623.

AN ACT relating to taxation; clarifying the requirements for imposition and collection of the real property transfer tax on certain land sale installment contracts; requiring that such instruments be recorded; imposing conditions on the approval and recording of certain documents relating to the division of land; establishing certain actions relating to land sale contracts; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a tax on each deed by which lands, tenements or other realty are assigned, transferred or otherwise conveyed. (NRS 375.020) Under the existing law, payment of the transfer tax can be avoided if the instrument memorializing the transfer is not recorded pursuant to NRS 111.315.

Sections 2-9 of this bill require payment of the real property transfer tax on transfers of property evidenced by land sale installment contracts. Additionally, **section 8** prohibits a county recorder from accepting for recordation ~~certain documents relating to the division of land without proof of payment of the tax.~~ **any deed, conveyance or land sale installment contract if certain taxes have not been paid.**

Sections 10-13 of this bill require submission of an affidavit regarding payment of the tax and compliance with certain requirements for land sale installment contracts as a condition to local governmental approval of certain documents relating to the division of land.

Section 14 of this bill makes the failure to make certain disclosures, record a land sale installment contract or pay the tax on such a contract a deceptive trade practice.

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

Section 1. NRS 375.010 is hereby amended to read as follows:

375.010 1. The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

(a) "Buyer" means a person or other legal entity acquiring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantee or other transferee of real property.

(b) "Deed" means every instrument in writing, whatever its form and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, except that the term does not include:

- (1) A lease for any term of years;
- (2) An easement;
- (3) A deed of trust or common-law mortgage instrument that encumbers real property;
- (4) A last will and testament;
- (5) A distribution of the separate property of a decedent pursuant to chapter 134 of NRS;
- (6) An affidavit of a surviving tenant;
- (7) A conveyance of a right-of-way; or
- (8) A conveyance of an interest in gas, oil or minerals.

(c) "Escrow" means the delivery of a deed by the seller into the hands of a third person, including an attorney, title company, real estate broker or other person engaged in the business of administering escrows for compensation, to be held by the third person until the happening of a contingency or performance of a condition, and then to be delivered by the third person to the buyer.

(d) "*Land sale installment contract*" means any agreement between a seller and a buyer of real property located in this State pursuant to which the buyer gives and the seller receives the consideration paid in multiple payments during a specified period and the seller retains title to the real property that is the subject of the agreement until the full contract price is paid, at which time title to the real property is transferred by an instrument in writing from the seller to the buyer. The term does not include a deed of trust or common-law mortgage instrument that encumbers real property or an option to purchase real property.

(e) "Seller" means a person or other legal entity transferring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantor or other transferor of real property.

~~(e)~~ (f) "Value" means:

(1) In the case of any deed which is not a gift, *or a land sale installment contract*, the amount of the full purchase price paid or to be paid for the real property.

(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated fair market value of the property.

2. As used in paragraph (e) of subsection 1, “estimated fair market value” means the estimated price the real property would bring on the open market in a sale between a willing buyer and a willing seller. Such price may be derived from the assessor’s taxable value or the prior purchase price, if the prior purchase was within the 5 years immediately preceding the date of valuation, whichever is higher.

Sec. 2. NRS 375.020 is hereby amended to read as follows:

375.020 1. A tax, at the rate of:

(a) In a county whose population is 400,000 or more, \$1.25; and

(b) In a county whose population is less than 400,000, 65 cents,

↪ for each \$500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract*, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of tax must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

Sec. 3. NRS 375.023 is hereby amended to read as follows:

375.023 1. In addition to all other taxes imposed on transfers of real property, a tax, at the rate of \$1.30 on each \$500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract*, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of the tax must be computed on the basis of the value of the transferred property as declared pursuant to NRS 375.060.

3. The county recorder of each county shall collect the tax in the manner provided in NRS 375.030, except that the amount collected must be transmitted to the State Controller for deposit in the State General Fund within 30 days after the end of the calendar quarter during which the tax was collected.

4. The county recorder of each county may deduct and withhold from the taxes collected 1 percent of those taxes to reimburse the county for the cost of collecting the tax.

Sec. 4. NRS 375.026 is hereby amended to read as follows:

375.026 1. In addition to all other taxes imposed on transfers of real property, the board of county commissioners of a county whose population is less than 400,000 may impose a tax at the rate of up to 5 cents for each \$500 of value, or fraction thereof, on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract*, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of the tax must be computed on the basis of the value of the ~~transferred~~ real property *that is the subject of the transfer or land sale installment contract* as declared pursuant to NRS 375.060.

3. The county recorder shall collect the tax in the manner provided in NRS 375.030, except that he shall transmit all the proceeds from the tax imposed pursuant to this section to the State Treasurer for use in the Plant Industry Program as required by NRS 561.355.

Sec. 5. NRS 375.030 is hereby amended to read as follows:

375.030 1. If any deed evidencing a transfer of title *or land sale installment contract* subject to the tax imposed by NRS 375.020 and 375.023 and, if applicable, NRS 375.026 is offered for recordation, the county recorder shall compute the amount of the tax due and shall collect that amount before acceptance of the deed for recordation.

2. The buyer and seller are jointly and severally liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 and any penalties and interest imposed pursuant to subsection 3. The escrow holder is not liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 or any penalties or interest imposed pursuant to subsection 3.

3. If, after recordation of the deed ~~[-]~~ *or land sale installment contract*, the county recorder disallows an exemption that was claimed at the time the deed was recorded or through audit or otherwise determines that an additional amount of tax is due, the county recorder shall promptly notify the person who requested the recording of the deed *or land sale installment contract* and the buyer and seller of the additional amount of tax due. If the additional amount of tax is not paid within 30 days after the date the buyer and seller are notified, the county recorder shall impose a penalty of 10 percent of the additional amount due in addition to interest at the rate of 1 percent per month, or portion thereof, of the additional amount due calculated from the date of the original recordation of the deed *or land sale installment contract* on which the additional amount is due through the date on which the additional amount due, penalty and interest are paid to the county recorder.

4. This section does not prohibit a buyer and seller from agreeing by contract or otherwise that one party or the other will be responsible for the payment of the tax due pursuant to this chapter, but such an agreement does not affect the ability of the county recorder to collect the tax and any penalties and interest from either the buyer or the seller.

Sec. 6. NRS 375.060 is hereby amended to read as follows:

375.060 1. Each deed evidencing a transfer of title of real property *or land sale installment contract* that is presented for recordation to the county recorder must be accompanied by a declaration of value made on a form prescribed by the Nevada Tax Commission.

2. A county recorder shall not charge or collect any fees for recording the declaration of value required pursuant to this section.

Sec. 7. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property \boxplus , ***including, without limitation, a transfer by an instrument in writing pursuant to the terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.***

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

↪ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, “educational foundation” has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, “university foundation” has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 8. NRS 375.100 is hereby amended to read as follows:

375.100 ~~##~~ The county recorder shall refuse to record any deed, ~~for~~ conveyance *or land sale installment contract* upon which a tax is imposed by this chapter if the tax has not been paid and is not subject to liability for refusing to record a deed, ~~for~~ conveyance *or land sale installment contract* for which a tax imposed pursuant to this chapter has not been paid.

~~2. The county recorder shall not accept for recording any parcel map, map of division into large parcels, subdivision plat, map of reversion of any division of land to acreage or document adjusting a boundary line of any property unless the county recorder has proof of the payment of any applicable tax due pursuant to this chapter.~~

Sec. 9. NRS 375.110 is hereby amended to read as follows:

375.110 Any person who willfully falsely declares the value of transferred real property *or land sale installment contract* pursuant to NRS 375.060 is guilty of a misdemeanor and shall pay the amount of any additional tax required on account of the falsification.

Sec. 10. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after receipt of the planning commission’s recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive; ~~and~~

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands ~~[-]~~; **and**

(k) The submission by the subdivider of an affidavit stating that the subdivider ~~has made~~ will make provision for payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable. ~~[-]~~, by the subdivider or any successor in interest.

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. ***The governing body or planning commission shall not approve the tentative map unless the subdivider has submitted an affidavit stating that the subdivider ~~has made~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable. ~~[-]~~, by the subdivider or any successor in interest.*** Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 11. NRS 278.461 is hereby amended to read as follows:

278.461 1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:

(a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and

(b) Pay a filing fee in an amount determined by the governing body,

↪ unless those requirements are waived or the provisions of NRS 278.471 to 278.4725, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid ~~[-]~~, ***and by the affidavit of the person who proposes to divide the land stating that the person ~~has made~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~[-]~~, by the person who proposes to divide the land or any successor in interest.***

2. In addition to any other requirement set forth in this section, a person who is required to prepare a parcel map pursuant to subsection 1 shall provide a copy of the parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:

(a) Any parcel included in the parcel map:

(1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring approval by him of the parcel map; and

(2) Will be served by a domestic well; and

(b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.

3. If the parcel map is submitted to the clerk of the governing body, he shall submit the parcel map to the governing body at its next regular meeting.

4. A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.

5. A parcel map is not required when the division is for the express purpose of:

(a) The creation or realignment of a public right-of-way by a public agency.

(b) The creation or realignment of an easement.

(c) An adjustment of the boundary line between two abutting parcels or the transfer of land between two owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.

(d) The purchase, transfer or development of space within an apartment building or an industrial or commercial building.

(e) Carrying out an order of any court or dividing land as a result of an operation of law.

6. A parcel map is not required for any of the following transactions involving land:

(a) The creation of a lien, mortgage, deed of trust or any other security instrument.

(b) The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.

(c) Conveying an interest in oil, gas, minerals or building materials, which is severed from the surface ownership of real property.

(d) Conveying an interest in land acquired by the Department of Transportation pursuant to chapter 408 of NRS.

(e) Filing a certificate of amendment pursuant to NRS 278.473.

7. When two or more separate lots, parcels, sites, units or plots of land are purchased, they remain separate for the purposes of this section and NRS 278.468, 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or conveyed they are exempt from the provisions of NRS 278.010 to 278.630, inclusive, until further divided.

8. Unless a method of dividing land is adopted for the purpose or would have the effect of evading this chapter, the provisions for the division of land by a parcel map do not apply to a transaction exempted by paragraph (c) of subsection 1 of NRS 278.320.

9. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 12. NRS 278.464 is hereby amended to read as follows:

278.464 1. Except as otherwise provided in subsection 2, if there is a planning commission, it shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after accepting as a complete application a parcel map, recommend approval, conditional approval or disapproval of the map in a written report. The planning commission shall submit the parcel map and the written report to the governing body.

2. If the governing body has authorized the planning commission to take final action on a parcel map, the planning commission shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after accepting as a complete application the parcel map, approve, conditionally approve or disapprove the map. The planning commission shall file its written decision with the governing body. Unless the time is extended by mutual agreement, if the planning commission is authorized to take final action and it fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,
↪ after acceptance of the parcel map as a complete application by the governing body pursuant to subsection 1 or pursuant to subsection 3 of NRS 278.461, review and approve, conditionally approve or disapprove the parcel map. Unless the time is extended by mutual agreement, if the governing body, the director of planning or other authorized person or agency fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

4. ***The planning commission and the governing body or director of planning or other authorized person or agency shall not approve the parcel map unless the person proposing to divide the land has submitted an affidavit stating that the person ~~has made~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~is~~, by the person proposing to divide the land or any successor in interest.***

5. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the time is extended by mutual agreement, a request for a waiver must be acted upon:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after the date of the request for the waiver or, in the absence of action, the waiver shall be deemed approved.

~~{5-}~~ 6. A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.

~~{6-}~~ 7. An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

~~{7-}~~ 8. If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chairman of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing body or planning commission determined that a public street, easement or

utility easement which will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

Sec. 13. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; ~~and~~

(b) **Submit an affidavit stating that the person ~~has made~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~to~~, by the person who proposes to make a division of land or any successor in interest; and**

(c) Pay a filing fee of no more than \$750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

4. The planning commission and the governing body or its authorized representative shall not approve the tentative map unless the person proposing to divide the land has submitted an affidavit stating that the person ~~has made~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~to~~, by the person proposing to divide the land or any successor in interest.

Sec. 14. NRS 598.0923 is hereby amended to read as follows:

598.0923 A person engages in a “deceptive trade practice” when in the course of his business or occupation he knowingly:

1. Conducts the business or occupation without all required state, county or city licenses.
2. Fails to disclose a material fact in connection with the sale or lease of goods or services.
3. Violates a state or federal statute or regulation relating to the sale or lease of goods or services.
4. Uses coercion, duress or intimidation in a transaction.
5. *As the seller in a land sale installment contract, fails to:*
 - (a) *Disclose in writing to the buyer:*
 - (1) *Any encumbrance or other legal interest in the real property subject to such contract; or*
 - (2) *Any condition known to the seller that would affect the buyer’s use of such property.*
 - (b) *Disclose the nature and extent of legal access to the real property subject to such agreement.*
 - (c) *Record the land sale installment contract pursuant to NRS 111.315 within 30 calendar days after the date upon which the seller accepts the first payment from the buyer under such a contract.*
 - (d) *Pay the tax imposed on the land sale installment contract pursuant to chapter 375 of NRS.*
 - (e) *Include terms in the land sale installment contract providing rights and protections to the buyer that are substantially the same as those under a foreclosure pursuant to chapter 40 of NRS.*

↪ *As used in this subsection, “land sale installment contract” has the meaning ascribed to it in paragraph (d) of subsection 1 of NRS 375.010.*

Sec. 15. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 730.

AN ACT relating to estates; revising provisions relating to the succession of property under certain circumstances; modifying the compensation structure authorized for attorneys for personal representatives; making various other changes relating to the administration of estates of deceased persons; revising provisions governing declaratory relief for certain probate matters; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Section 1 of this bill provides that, unless a will expressly provides otherwise, the adoption of an adult person by someone other than the testator~~

~~of the will must be disregarded for purposes of identifying the devisees, who are the persons designated in the will to receive a disposition of real or personal property. Section 4 of this bill sets forth a similar provision with regard to the heirs of a person who died without a will. Section 34 of this bill sets forth a similar provision with regard to the beneficiaries of a trust that is established in a will or in a trust instrument.]~~

Existing law provides, with certain exceptions, that a will is revoked as to a person's spouse if the person married the spouse after making a will and the spouse survives him. **Section 2** of this bill additionally provides that the will is not revoked if the spouse is provided for by a transfer of property outside of the will under certain circumstances. (NRS 133.110) Further, **section 2** provides that if a will is revoked as to a spouse, the spouse is entitled to the same share of the property as if the person who made the will had died intestate, meaning without a will. **Section 3** of this bill amends the law in a similar manner as **section 2** with regard to a child who is born after his parent made a will that does not provide for the child. (NRS 133.160)

Existing law provides that if a person dies without a will and he leaves no issue, meaning children, grandchildren or more remote lineal descendants, surviving spouse, father or mother, the person's estate must be distributed in equal shares to his brothers and sisters and to the children of his deceased brother or sister in equal shares per person. **Section 5** of this bill provides that under such circumstances, the person's brothers and sisters each receive a share and the lawful issue of any deceased brother or sister receive shares by right of representation, which means the lawful issue receive the same share their parents would have received. (NRS 134.060)

Section 8 of this bill generally provides for the enforcement of a no-contest clause in a will with certain exceptions, including that a devisee's share will not be reduced or eliminated if the devisee institutes legal action to invalidate a will in good faith and based on probable cause. **Section 35** of this bill amends the law in a similar manner as **section 8** with regard to a no-contest clause in a trust.

Existing law sets forth the qualifications for an executor of an estate, which include that a person must not have been convicted of a felony relating to the position of an executor. **Section 9** of this bill gives the court discretion to determine whether a conviction for a felony should disqualify the person from serving in the position of an executor. (NRS 138.020) Existing law sets forth the qualifications for appointment as an administrator of an estate, which include that a person must not have been convicted of a felony relating to the position of an administrator. **Section 10** of this bill: (1) amends the law in a similar manner as **section 9** with regard to the qualifications for an administrator; and (2) revises the circumstances in which a person who is not a resident of Nevada may be qualified to serve as an administrator and in which a banking corporation not authorized to do business in Nevada may be qualified to serve as an administrator. (NRS 139.010) Existing law provides for the appointment by the court of a special administrator to collect and take

charge of the estate of a decedent. **Section 13** of this bill amends existing law to require a court to appoint as special administrators of an estate only those persons who satisfy the qualifications for appointment as an administrator of an estate. (NRS 140.020)

~~Section~~ **Sections 15-18** of this bill revise certain provisions regarding the support of a decedent's family to authorize the court to make certain decisions if it is deemed advisable considering the family's needs and resources. (NRS 146.010, 146.020, 146.030, 146.050)

Existing law provides for compensation of an attorney for a personal representative. (NRS 150.060) **Sections 21-24 and 27** of this bill provide for compensation of such an attorney based upon, among other things, an hourly basis, the value of the estate and a contingency fee basis. **Section 21** also provides for compensation of such an attorney for extraordinary services and defines the term "extraordinary services" for that purpose.

Sections 30 and 31 of this bill provide that certain persons may seek declaratory relief under chapter 30 of NRS regarding a will, trust or certain other probate matters, but such proceedings for declaratory relief must only be commenced pursuant to titles 12 and 13 of NRS, as appropriate. (NRS 30.040, 30.060) **Section 32** of this bill revises the definition of "community property" as used in various provisions throughout NRS. (NRS 41B.050, 123.220, 132.075)

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

Section 1. ~~Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Except as otherwise expressly provided by a testator in his will, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the testator, must be disregarded for purposes of identifying the devisees of the will.*~~ (Deleted by amendment.)

Sec. 2. NRS 133.110 is hereby amended to read as follows:

133.110 *1.* If a person marries after making a will and the spouse survives the maker, the will is revoked as to the spouse, unless ~~provision~~:

(a) *Provision* has been made for the spouse by marriage contract ~~or unless the~~;

(b) *The* spouse is provided for in the will, or in such a way mentioned therein as to show an intention not to make such provision; ~~and no other evidence to rebut the presumption of revocation shall be received.~~ *or*

(c) *The spouse is provided for by a transfer of property outside of the will and it appears that the maker intended the transfer to be in lieu of a testamentary provision.*

2. When a will is revoked as to the spouse pursuant to subsection 1:

(a) *The spouse is entitled to the same share in the estate of the deceased spouse as if the deceased spouse had died intestate; and*

(b) The remaining provisions of the will remain intact to the extent those provisions are not inconsistent with paragraph (a), including, without limitation, any provision concerning the appointment of a personal representative.

Sec. 3. NRS 133.160 is hereby amended to read as follows:

133.160 **1.** When a child is born after the making of a will by a parent of that child and no provision is made for the child in the will, the child is entitled to the same share in the estate of the testator as if the testator had died intestate, unless ~~fit~~ :

(a) It is apparent from the will that it was the intention of the testator that no provision should be made for that child [-]; or

(b) The testator provided for the omitted child by a transfer of property outside of the will and it appears that the testator intended the transfer to be in lieu of a testamentary provision.

2. *If, pursuant to subsection 1, a child is entitled to take the same share in the estate of the testator as if the testator had died intestate, the remaining provisions of the will remain intact to the extent those provisions are not inconsistent with this subsection, including, without limitation, any provision concerning the appointment of a personal representative.*

Sec. 4. ~~[Chapter 134 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*The adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the decedent, must be disregarded for purposes of identifying the heirs of the decedent pursuant to this chapter.]*~~
(Deleted by amendment.)

Sec. 5. NRS 134.060 is hereby amended to read as follows:

134.060 If there is no issue, surviving spouse, or father or mother, then the estate goes in equal shares to the brothers and sisters of the decedent and to the ~~[children]~~ **lawful issue** of any deceased brother or sister ~~[in equal shares, per capita.]~~ **by right of representation as follows:**

- 1. To the brothers and sisters, each a share; and**
- 2. To the lawful issue of each deceased brother and sister, by right of representation, the same share that the parent would have received if the parent had been living at the time of the death of the decedent.**

Sec. 6. NRS 136.090 is hereby amended to read as follows:

136.090 **1.** A petition for the probate of a will and issuance of letters must state:

- (a) The jurisdictional facts;
- (b) Whether the person named as personal representative consents to act or renounces the right to letters;
- (c) The names and residences of the heirs, next of kin and devisees of the decedent, the age of any heir, next of kin or devisee who is a minor, and the relationship of the heirs and next of kin to the decedent, so far as known to the petitioner;
- (d) The character and estimated value of the property of the estate;

(e) The name of the person for whom letters are requested, and ~~that~~ **whether** the person has ~~never~~ been convicted of a felony; and

(f) The name of any devisee who is deceased.

2. No defect of form or in the statement of jurisdictional facts actually existing voids the probate of a will.

Sec. 7. NRS 136.240 is hereby amended to read as follows:

136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.

2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.

3. In addition, no will may be proved as a lost or destroyed will unless it is proved to have been in existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least two credible witnesses.

4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is admissible in evidence in any contest of the will if the witness has died or permanently moved from the State.

5. ***Notwithstanding any provision of this section to the contrary:***

(a) The production of a person's lost or destroyed will, whose primary beneficiary is a nontestamentary trust established by the person and in existence at his death, creates a rebuttable presumption that the will had not been revoked.

(b) If the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than not left unrevoked by the person whose will it is claimed to be before his death, then the will must be admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in the absence of any objection.

6. If the will is established, its provisions must be set forth specifically in the order admitting it to probate, or a copy of the will must be attached to the order.

Sec. 8. Chapter 137 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ***Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court.***

2. ***A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law.***

3. ***Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated if the devisee seeks only to:***

- (a) *Enforce the terms of the will;*
- (b) *Enforce the devisee's legal rights in the probate proceeding; or*
- (c) *Obtain a court ruling with respect to the construction or legal effect of the will.*

4. *Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the will was invalid.*

5. *As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.*

Sec. 9. NRS 138.020 is hereby amended to read as follows:

138.020 1. No person is qualified to serve as an executor who, at the time the will is probated:

- (a) Is under the age of majority;
- (b) Has been convicted of a felony ~~[relating to]~~, *unless the court determines that such a conviction should not disqualify the person from serving in* the position of an executor;
- (c) Upon proof, is adjudged by the court disqualified to execute the duties of executor by reason of conflict of interest, drunkenness, improvidence or lack of integrity or understanding; or
- (d) Is a bank not authorized to do business in the State of Nevada, unless it associates as coexecutor a bank authorized to do business in this State. An out-of-state bank is qualified to appoint a substitute executor, pursuant to NRS 138.045, without forming such an association, but any natural person so appointed must be a resident of this State.

2. If a disqualified person is named as the sole executor in a will, or if all persons so named are disqualified or renounce their right to act, or fail to appear and qualify, letters of administration with the will annexed must issue.

Sec. 10. NRS 139.010 is hereby amended to read as follows:

139.010 No person is entitled to letters of administration ~~[who]~~ *if the person:*

- 1. Is under the age of majority;
- 2. Has been convicted of a felony ~~[relating to]~~, *unless the court determines that such a conviction should not disqualify the person from serving in* the position of an administrator;
- 3. Upon proof, is adjudged by the court disqualified by reason of conflict of interest, drunkenness, improvidence, or lack of integrity or understanding; ~~[or]~~
- 4. Is not a resident of the State of Nevada ~~[and who does not associate]~~, *unless the person:*

~~(a) Associates as coadministrator a resident of the State of Nevada [or which, in the case of a banking corporation, is not authorized to do business in this State and does not associate as coadministrator a resident of the State of Nevada] or a banking corporation authorized to do business in this State [;]~~
; or

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or

5. Is a banking corporation that is not authorized to do business in this State, unless the banking corporation:

(a) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.

Sec. 11. NRS 139.040 is hereby amended to read as follows:

139.040 1. Administration of the intestate estate of a decedent must be granted to one or more of the persons mentioned in this section, and they are respectively entitled to priority for appointment in the following order:

(a) The surviving spouse.

(b) The children.

(c) The father or the mother.

(d) The brother or the sister.

(e) The grandchildren.

(f) Any other of the kindred entitled to share in the distribution of the estate.

(g) The public administrator.

(h) Creditors who have become such during the lifetime of the decedent.

(i) Any of the kindred not above enumerated, within the fourth degree of consanguinity.

(j) Any person or persons legally qualified.

2. A person in each of the foregoing classes is entitled:

(a) To appointment, if the person is:

(1) A resident of the State of Nevada or ~~associates~~ **the person:**

(I) Associates as coadministrator a resident of the State of Nevada [;] or a banking corporation authorized to do business in this State; or

(II) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or

(2) A banking corporation which is authorized to do business in this State or which ~~associates~~ :

(I) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State [;]; or

(II) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.

(b) To nominate a resident of the State of Nevada or a qualified banking corporation for appointment, whether or not the nominator is a resident of the State of Nevada or a qualified banking corporation. The nominee has the same priority as the nominator. That priority is independent of the residence or corporate qualification of the nominator.

3. If any heir who is otherwise entitled to appointment is a minor or an incompetent person for whom a guardian has been appointed, the court may appoint the guardian of the minor or incompetent person as administrator.

Sec. 12. NRS 139.090 is hereby amended to read as follows:

139.090 1. A petition for letters of administration must be in writing, signed by the petitioner or the attorney for the petitioner and filed with the clerk of the court, and must state:

(a) The jurisdictional facts;

(b) The names and addresses of the heirs of the decedent and their relationship to the decedent, so far as known to the petitioner, and the age of any who is a minor;

(c) The character and estimated value of the property of the estate; and

(d) ~~That~~ ***Whether*** the person to be appointed as administrator has ~~never~~ been convicted of a felony.

2. No defect of form or in the statement of jurisdictional facts actually existing voids an order appointing an administrator or any of the subsequent proceedings.

Sec. 13. NRS 140.020 is hereby amended to read as follows:

140.020 1. The appointment of a special administrator may be made at chambers or in open court, and without notice or upon such notice to such interested persons as the court deems reasonable, and must be made by entry upon the minutes of the court or by written order signed and filed, which must specify the powers to be exercised by the special administrator.

2. Upon the filing of the order, and after the person appointed has given bond if fixed by the court, the clerk shall issue special letters of administration, with a copy of the order attached.

3. In making the appointment of a special administrator, the court ~~may~~

:

(a) Must appoint a person who satisfies the qualifications set forth in NRS 139.010; and

(b) May give preference to the person or persons entitled to letters testamentary or letters of administration, but no appeal may be taken from the appointment.

Sec. 14. NRS 145.020 is hereby amended to read as follows:

145.020 All proceedings taken under this chapter, whether or not the decedent left a will, must be originated by a petition for letters testamentary or letters of administration containing:

1. Jurisdictional information;
2. A description of the property of the decedent, including the character and estimated value of the property;
3. The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of each heir and devisee to the decedent, so far as known to the petitioner; and
4. A statement ~~that~~ **indicating whether** the person to be appointed as personal representative has ~~never~~ been convicted of a felony.

Sec. 15. NRS 146.010 is hereby amended to read as follows:

146.010 Except as **otherwise** provided in **this chapter or in** NRS 125.510, if a person dies leaving a surviving spouse or a minor child or minor children, the surviving spouse, minor child or minor children are entitled to remain in possession of the homestead and of all the wearing apparel and provisions in the possession of the family, and all the household furniture, and are also entitled to a reasonable provision for their support, to be allowed by the court.

Sec. 16. NRS 146.020 is hereby amended to read as follows:

146.020 Upon the filing of the inventory or at any time thereafter during the administration of the estate, the court, on its own motion or upon petition by an interested person, ~~shall~~ **may, if deemed advisable considering the needs and resources of the surviving spouse, minor child or minor children**, set apart for the use of the ~~family~~ **surviving spouse, minor child or minor children** of the decedent all of the personal property which is exempt by law from execution, and shall, **in accordance with NRS 146.050**, set apart the homestead, as designated by the general homestead law then in force, whether the homestead has theretofore previously been selected as required by law or not, and the property thus set apart is not subject to administration.

Sec. 17. NRS 146.030 is hereby amended to read as follows:

146.030 1. If the whole property exempt by law is set apart and is not sufficient for the support of the surviving spouse, minor child or minor children, the court ~~shall~~ **may, if deemed advisable considering the needs and resources of the surviving spouse, minor child or minor children**, make such reasonable allowance out of the estate as is necessary for the maintenance of the family according to their circumstances during the progress of the administration of the estate, which, in case of an insolvent estate, may not be longer than 1 year after granting letters of administration.

2. If the surviving spouse or any minor child has a reasonable maintenance derived from other property, and there are other persons entitled to a family allowance, the allowance must be granted only to those who do not have such maintenance, or the allowance may be apportioned in such manner as may be just.

Sec. 18. NRS 146.050 is hereby amended to read as follows:

146.050 1. If the homestead was selected by the spouses, or either of them, during their marriage, and recorded while both were living, as provided

in chapter 115 of NRS, it vests, on the death of either spouse, absolutely in the survivor, unless vesting is otherwise required pursuant to subsection 2 of NRS 115.060.

2. If no homestead was so selected, a homestead may be set apart by the court to the ~~family~~ **surviving spouse, minor child or minor children** of the decedent for a limited period if deemed advisable considering the needs and resources of the family and the nature, character and obligations of the estate. The duration of the homestead must be designated in the order setting it apart and may not extend beyond the lifetime of the surviving spouse or the minority of any child of the decedent, whichever is longer. A homestead so set apart then vests, subject to the setting apart:

(a) If set apart from the separate property of the decedent, in the heirs or devisees of the decedent.

(b) If set apart from community property, one-half in the surviving spouse and one-half in the devisees of the decedent, or if no disposition is made, then entirely in the surviving spouse.

3. In either case referred to in subsection 1 or 2, the homestead is not subject to the payment of any debt or liability existing against the spouses, or either of them, at the time of death of either, unless the debt or liability is secured by a mortgage or lien.

Sec. 19. NRS 148.120 is hereby amended to read as follows:

148.120 When an offer is presented for confirmation by the court, other offerors may submit higher bids and the court may confirm the highest bid. ~~Upon~~ **Except as otherwise provided in this section, upon** confirmation, the real estate commission must be divided between the listing agent and the agent, if any, who procured the purchaser to whom the sale was confirmed, in accordance with the listing agreement. ***If the agent who procured the offer presented for confirmation by the court is not the agent who procured the purchaser to whom the sale was confirmed, then the real estate commission payable to the agent who procured the purchaser must be divided equally between the agent who procured the offer and the agent who procured the purchaser unless otherwise directed by the court.***

Sec. 20. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 21 to 25, inclusive, of this act.

Sec. 21. ***1. If an attorney for a personal representative receives compensation pursuant to NRS 150.060 based on the value of the estate accounted for by the personal representative, the court may allow additional compensation for extraordinary services by the attorney for the personal representative in an amount the court determines is just and reasonable after petition, notice and hearing in the manner provided in NRS 150.060.***

2. Extraordinary services by the attorney for a personal representative for which the court may allow compensation include extraordinary services performed by a paralegal under the direction and supervision of the attorney.

3. *The petition requesting approval for compensation for extraordinary services must include the following information:*

- (a) Reference to time and hours;*
- (b) The nature and extent of services rendered;*
- (c) The complexity of the work required;*
- (d) The hours spent and services performed by a paralegal if the compensation includes extraordinary services performed by a paralegal as described in subsection 2; and*
- (e) Other information considered to be relevant to a determination of entitlement.*

4. *An attorney for a personal representative may agree to perform extraordinary services on a contingency fee basis if:*

- (a) There is a written agreement between the personal representative and the attorney that sets forth the manner in which the compensation is to be calculated and that is approved by the court after a hearing; and*
- (b) The court determines that the compensation provided in the agreement is just and reasonable and that the agreement will be to the advantage of the estate and is in the best interests of the persons interested in the estate.*

5. *Notice of a hearing required by subsection 4 must be given for the period and in the manner provided in NRS 155.010.*

6. *As used in this section, "extraordinary services" include, without limitation:*

- (a) Sales or mortgages of real or personal property;*
- (b) Operating a decedent's business;*
- (c) Participating in litigation relating to the estate;*
- (d) Securing a loan to pay debts relating to the estate; and*
- (e) Preparing and filing income tax returns for the estate.*

Sec. 22. *If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.*

Sec. 23. 1. *At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant to NRS 145.060 or 147.040, as applicable, the personal representative or the attorney for the personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.*

2. *The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of*

the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 24. 1. At the time of the filing of the final account and of a petition for an order for final distribution of the estate, the personal representative or the attorney for the personal representative may file a petition with the court for an order fixing and allowing the compensation of the attorney for the personal representative for all services rendered in the estate proceeding.

2. The request for compensation described in subsection 1 may be included in the final account or in the petition for an order for final distribution of the estate or may be made in a separate petition.

3. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

4. On the hearing, the court shall make an order fixing and allowing the compensation for all services rendered in the estate proceeding. The order must authorize the personal representative to pay the attorney out of the estate the amount of compensation allowed by the court pursuant to this subsection less any amount paid to the attorney out of the estate pursuant to section 23 of this act.

Sec. 25. Except as otherwise provided by the donor or decedent in writing:

1. Except as otherwise provided in subsection 3, for gifts that were made subject to the federal gift tax and in cases where the decedent's estate is insufficient to pay all federal gift taxes due at the time of the decedent's death, the unpaid federal gift tax must be borne on a pro rata basis by those receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal gift tax.

2. The federal generation-skipping transfer tax must be borne on a pro rata basis by those persons receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal generation-skipping transfer tax.

3. The application of exclusions, exemptions, deferrals or other provisions of the law available at the time of each transfer must be applied in chronological order to the transfers to which they relate.

4. To the extent issues remain unresolved after applying the principles set forth in subsections 1, 2 and 3, the provisions of NRS 150.290 to 150.380, inclusive:

(a) Must be applied to determine the allocation, apportionment and collection of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax; and

(b) Must be applied to determine the procedures for the judicial determination of the apportionment of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax.

Sec. 26. NRS 150.020 is hereby amended to read as follows:

150.020 1. If no compensation is provided by the will, or the personal representative renounces all claims thereto, fees must be allowed upon the whole amount of the estate which has been accounted for, less liens and encumbrances, as follows:

(a) For the first \$15,000, at the rate of 4 percent.

(b) For the next \$85,000, at the rate of 3 percent.

(c) For all above \$100,000, at the rate of 2 percent.

2. The same fees must be allowed to the personal representative if there is no will.

3. If there are two or more personal representatives, the compensation must be apportioned among them by the court according to the services actually rendered by each.

4. In addition to the fees described in subsection 1, the court may allow such fees as it deems just and reasonable if the fees authorized pursuant to subsection 1 are not sufficient to reasonably compensate the personal representative.

Sec. 27. NRS 150.060 is hereby amended to read as follows:

150.060 1. Attorneys for personal representatives are entitled to reasonable compensation for their services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

(a) The applicable hourly rate of the attorney;

(b) The value of the estate accounted for by the personal representative;

(c) An agreement as set forth in subsection 4 of section 21 of this act; or

(d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he may include, as part of that compensation for ordinary

services, a charge for legal services or paralegal services performed by a person under his direction and supervision.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:

- (a) For the first \$100,000, at the rate of 4 percent;*
- (b) For the next \$100,000, at the rate of 3 percent;*
- (c) For the next \$800,000, at the rate of 2 percent;*
- (d) For the next \$9,000,000, at the rate of 1 percent;*
- (e) For the next \$15,000,000, at the rate of .05 percent; and*
- (f) For all amounts above \$25,000,000, a reasonable amount to be determined by the court.*

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

- (a) The schedule of fees to be charged by the attorney;*
- (b) The manner in which compensation for extraordinary services may be charged by the attorney; and*
- (c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.*

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

- (a) Is the total amount of the appraisal of property in the inventory, plus:*
 - (1) The gains over the appraisal value on sales; and*
 - (2) The receipts, less losses from the appraisal value on sales; and*
- (b) Does not include encumbrances or other obligations on the property of the estate.*

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in section 21 of this act.

8. The ~~amount~~ compensation of the attorney must be fixed by written agreement between the personal representative and the attorney, and is subject to approval by the court, after petition, notice and hearing as provided in ~~subsection 2.~~ this section. If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition requesting approval of the compensation of the attorney must contain

specific and detailed information supporting the entitlement to compensation, including:

(a) *If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and*

(b) *If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:*

(1) Reference to time and hours;

~~{(b)}~~ (2) The nature and extent of services rendered;

~~{(e)}~~ (3) Claimed ordinary and extraordinary services;

~~{(d)}~~ (4) The complexity of the work required; and

~~{(e)}~~ (5) Other information considered to be relevant to a determination of entitlement.

~~{2-}~~ **9.** The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

~~{3-}~~ **10.** On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings.

~~{4-}~~ *If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.*

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

~~{5-}~~ **12.** Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by him in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 28. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

(a) Determining the existence of the trust;

- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;
- (g) Instructing the trustee;
- (h) Compelling the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of his compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts;
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust; ~~and~~
- (q) Compelling compliance with the terms of the trust or other applicable law ~~}; and~~

(r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

- (a) Order a reduction in the trustee's compensation.
- (b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. The trustee may not be held personally liable for the payment of such

costs unless the court determines that the trustee was negligent in the performance of or breached his fiduciary duties.

Sec. 29. NRS 155.190 is hereby amended to read as follows:

155.190 ~~{1}~~

1. Except as otherwise provided in subsection 2, in addition to any order from which an appeal is expressly permitted by this title, an appeal may be taken to the Supreme Court within 30 days after the notice of entry of an order:

~~{1}~~ **(a)** Granting or revoking letters testamentary or letters of administration.

~~{2}~~ **(b)** Admitting a will to probate or revoking the probate thereof.

~~{3}~~ **(c)** Setting aside an estate claimed not to exceed ~~[\$50,000]~~ **\$100,000** in value.

~~{4}~~ **(d)** Setting apart property as a homestead, or claimed to be exempt from execution.

~~{5}~~ **(e)** Granting or modifying a family allowance.

~~{6}~~ **(f)** Directing or authorizing the sale or conveyance or confirming the sale of property.

~~{7}~~ **(g)** Settling an account of a personal representative or trustee.

~~{8}~~ **(h)** Instructing or appointing a trustee.

~~{9}~~ **(i)** Instructing or directing a personal representative.

~~{10}~~ **(j)** Directing or allowing the payment of a debt, claim, devise or attorney's fee.

~~{11}~~ **(k)** Determining heirship or the persons to whom distribution must be made or trust property must pass.

~~{12}~~ **(l)** Distributing property.

~~{13}~~ **(m)** Refusing to make any order mentioned in this section. ~~{14}~~

(n) Making any decision wherein the amount in controversy equals or exceeds, exclusive of costs, ~~[\$5,000]~~ **\$10,000**.

~~{14}~~ **(o)** Granting or denying a motion to enforce the liability of a surety filed pursuant to NRS 142.035.

~~{15}~~ **(p)** Granting an order for conveyance or transfer pursuant to NRS 148.410.

2. If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the time to file a notice of appeal pursuant to this section runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed not later than 30 days after the date of service of written notice of entry of that order:

(a) A motion for judgment under Rule 50(b);

(b) A motion under Rule 52(b) to amend or make additional findings of fact;

(c) A motion under Rule 59 to alter or amend the judgment; or

(d) A motion for a new trial under Rule 59.

Sec. 30. NRS 30.040 is hereby amended to read as follows:

30.040 *1.* Any person interested under a deed, ~~[will,]~~ written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

2. A maker or legal representative of a maker of a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 31. NRS 30.060 is hereby amended to read as follows:

30.060 *1.* Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic or insolvent, may have a declaration of rights or legal relations in respect thereto:

~~1.]~~ *(a)* To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; ~~for~~

~~2.]~~ *(b)* To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

~~3.]~~ *(c)* To determine any question arising in the administration of the estate or trust, including questions of construction of wills, *trusts* and other writings.

2. Any action for declaratory relief under this section may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 32. NRS 123.220 is hereby amended to read as follows:

123.220 All property, other than that stated in NRS 123.130, acquired after marriage by either husband or wife, or both, is community property unless otherwise provided by:

1. An agreement in writing between the spouses . ~~[, which is effective only as between them.]~~

2. A decree of separate maintenance issued by a court of competent jurisdiction.

3. NRS 123.190.

4. A decree issued or agreement in writing entered pursuant to NRS 123.259.

Sec. 33. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 34 and 35 of this act.

Sec. 34. ~~[1. Except as otherwise expressly provided by a testator in his will, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the testator, must be disregarded~~

~~for purposes of identifying the beneficiaries of a testamentary trust established pursuant to the terms of the will.~~

~~2. Except as otherwise expressly provided by a settlor in his trust instrument, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the settlor, must be disregarded for purposes of identifying the beneficiaries of the trust.]~~
(Deleted by amendment.)

Sec. 35. 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court.

2. A no-contest clause must be construed to carry out the settlor's intent. Except to the extent the no-contest clause in the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the settlor's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law.

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary seeks only to:

- (a) Enforce the terms of the trust or any other trust-related instrument;
- (b) Enforce the beneficiary's legal rights related to the trust or any trust-related instrument; or
- (c) Obtain a court ruling with respect to the construction or legal effect of the trust or any other trust-related instrument.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the trust or other trust-related instrument was invalid.

5. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 312.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 800.

AN ACT relating to motor vehicles; revising provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every owner of a motor vehicle which is registered or required to be registered in this State to continuously provide insurance for the payment of tort liabilities arising from the maintenance or use of the motor vehicle. (NRS 485.185) Existing law also requires the Department of Motor Vehicles to create a system to verify that owners of motor vehicles, other than golf carts and larger motortrucks, truck tractors and buses, maintain the required liability insurance. (NRS 485.130, 485.313) **Section 4** of this bill adds provisions: (1) requiring the Department to work in cooperation with insurers to develop the system; (2) requiring that the verification be conducted through the secure transmission and receipt of information necessary to verify that owners of motor vehicles maintain the required liability insurance; (3) authorizing the Department to contract with any person to provide services relating to the system; ~~and~~ (4) requiring the Director of the Department to adopt certain regulations; and (5) making the system applicable to certain vehicles that are part of a fleet and all motortrucks, truck tractors and buses.

If the Department determines that a motor vehicle is not covered by a policy of liability insurance, existing law requires the Department to send a form for verification of liability insurance to the owner of the vehicle. **Section 7** of this bill amends the provisions relating to the Department's process for verifying whether the owner of the vehicle maintains liability insurance. (NRS 485.317)

Existing law provides that an owner of certain motor vehicles who provides proof of liability insurance provided by an insurance company that is not approved to do business in this State may register the motor vehicle and have 7 calendar days to provide proof of liability by an insurance company that is licensed and approved to do business in this State. (NRS 482.215) **Section 2** of this bill removes the provision allowing an owner 7 calendar days to provide proof of liability insurance by an insurance company that is licensed and approved to do business in this State. Existing law further provides that the owner of a fleet of motor vehicles and certain other motor vehicles must provide evidence of liability insurance on a form that is satisfactory to the Department. (NRS 482.215) **Section 2** specifies that

such liability insurance must be provided by an insurance company licensed and approved to do business in this State. **Section 5** of this bill deletes provisions of existing law that prescribe the specific form and content of the records of motor vehicle liability policies which insurers must provide to the Department. (NRS 485.314)

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

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415, 253.044 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↪ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester

officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415, 253.044 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

↪ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the ~~database~~ **system** created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that ~~database~~ **system**.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request

if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 2. NRS 482.215 is hereby amended to read as follows:

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5:

(1) Proof satisfactory to the Department or registered dealer that the applicant carries insurance on the vehicle ~~[, and if the insurance is not]~~ provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185 ; ~~[, the applicant must meet the requirements of NRS 485.185 within 7 calendar days;]~~ and

(2) A declaration signed by the applicant that he will maintain the insurance required by NRS 485.185 during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance ~~[,]~~ ***provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185:***

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle ; ~~[and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185;]~~ or

(3) In another form satisfactory to the Department.

↪ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

Sec. 3. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all ~~to~~ the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection ~~9~~ 7 of NRS 485.317, to reinstate the registration of a motor vehicle *that is* suspended pursuant to that section:

(a) A fee of \$250 for a registered owner who failed to have insurance on the date specified ~~[in the form for verification that was mailed]~~ by the Department ; ~~[pursuant to subsection 3 of NRS 485.317;]~~ or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

↪ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of \$27.
8. For every permit for the operation of a golf cart, an annual fee of \$10.
9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of \$33.
10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

Sec. 4. NRS 485.313 is hereby amended to read as follows:

485.313 1. The Department ~~shall~~:

- (a) ***Shall, in cooperation with insurers,*** create a system for verifying ***through the secure transmission and receipt of information*** that the owners of motor vehicles maintain the insurance required by NRS 485.185 ~~[-]~~; ***and***
- (b) ***May enter into a contract with any person to provide services relating to the system.***

2. **The Director shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations for verifying that registered owners described in paragraph (b) of subsection 5 of NRS 482.215 maintain the insurance required by NRS 485.185.**

3. As used in this section, "motor vehicle" ~~does~~:

(a) ***Does*** not include ~~[-]~~

~~(a) A~~ a golf cart as that term is defined in NRS 482.044.

(b) ***Includes, without limitation:***

(1) A motortruck, truck tractor, bus or other vehicle that is registered pursuant to paragraph (c) of subsection 1 of NRS 482.482 or NRS 706.801 to 706.861, inclusive.

(2) A vehicle that is registered as part of a fleet of vehicles and described in paragraph (b) of subsection 5 of NRS 482.215.

Sec. 5. NRS 485.314 is hereby amended to read as follows:

485.314 1. ~~On or before the 15th calendar day of each month, each~~ ***Each*** insurer that has executed a contract of insurance for a motor vehicle liability policy which may be used to meet the requirements of NRS 485.185 shall ~~provide the Department with~~ ***maintain*** a record of each such policy ~~issued, amended or terminated in the previous month on the date the record is provided. The record must include:~~

~~(a) The name or identification number of each insured named in the policy of insurance;~~

~~(b) The make, year and vehicle identification number of each motor vehicle included in the policy of insurance;~~

~~(c) The number, effective date and expiration date of the policy of insurance; and~~

~~(d) Any other information required by the Department.~~

~~2. The record provided pursuant to subsection 1 must be submitted~~ in a ~~form~~ ***format*** approved by the Department and ~~may include, without limitation, magnetic tape or any other electronic medium deemed acceptable by the Department.~~

~~3. provide the Department with access to the record.~~

2. The Department shall notify the Commissioner of Insurance if an insurer:

(a) Fails to comply with subsection 1 ; ~~for 2;~~ or

(b) In complying with subsection 1 , ~~for 2;~~ provides to the Department information that is false, incomplete or misleading.

Sec. 6. NRS 485.316 is hereby amended to read as follows:

485.316 1. Except as otherwise provided in ~~subsections~~ **subsection 2** ~~and 3~~ and NRS 239.0115, information which is maintained in the ~~database~~ **system** created pursuant to NRS 485.313 is confidential.

2. The Department may only disclose information which is maintained in the ~~database, upon request, to a~~ **system to:**

(a) A state or local governmental agency for the purpose of enforcing NRS 485.185, including investigating or litigating a violation or alleged violation ~~;~~

~~3. The Department may only disclose information retrieved from the database to:~~

~~(a) ;~~

(b) *An authorized insurer;*

(c) *A person:*

(1) *With whom the Department has contracted to provide services relating to the system created pursuant to NRS 485.313; and*

(2) *To whom the information is disclosed only pursuant to a nondisclosure or confidentiality agreement which relates to the information;*

(d) A person who requests information regarding his own status;

~~[(b)]~~ (e) The parent or legal guardian of the person about whom the information is requested if the person is an unemancipated minor or legally incapacitated;

~~[(e)]~~ (f) A person who has a power of attorney from the person about whom the information is requested;

~~[(d)]~~ (g) A person who submits a notarized release from the person about whom the information is requested which is dated no more than 90 days before the date of the request; or

~~[(e)]~~ (h) A person who has suffered a loss or injury in an accident involving a motor vehicle, or his authorized insurer or a representative of his authorized insurer, who requests:

(1) Information for use in the accident report; and

(2) For each motor vehicle involved in the accident:

(I) The name and address of each registered owner;

(II) The name of the insurer; and

(III) The number of the policy of liability insurance.

~~4.]~~ 3. A person who knowingly violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~[5.]~~ 4. As used in this section, “authorized insurer” has the meaning ascribed to it in NRS 679A.030.

Sec. 7. NRS 485.317 is hereby amended to read as follows:

485.317 1. ~~[Subject to the limitations set forth in this subsection and subsection 2, the]~~ **The** Department shall ~~[, at least monthly, compare the current registrations of motor vehicles to the information in the database created pursuant to NRS 485.313 to]~~ verify that each motor vehicle ~~[:~~

~~(a) Which is newly]~~ **which** is registered in this State ~~[, or~~

~~(b) For which a policy of liability insurance has been issued, amended or terminated,~~

~~↪]~~ is covered by a policy of liability insurance as required by NRS 485.185.

~~[In identifying a motor vehicle for verification pursuant to this subsection, the Department may, if the motor vehicle was manufactured during or after 1981, use only the last eight digits of the vehicle identification number. In comparing the vehicle identification number of a motor vehicle to the vehicle identification number in a policy of liability insurance, to determine if the two vehicle identification numbers match, the Department may find that the two vehicle identification numbers match if no fewer than seven of the last eight digits of the two vehicle identification numbers match.]~~

2. Except as otherwise provided in this subsection, the Department may use any information to verify ~~[, pursuant to subsection 1,]~~ whether ~~[the]~~ **a** motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If ~~[, pursuant to subsection 1,]~~ the Department ~~[determines]~~ **is unable to verify** that a motor vehicle is ~~[not]~~ covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a ~~[form for verification]~~ **request for information** by first-class mail to ~~[each]~~ **the** registered owner ~~[that it determines has not maintained the insurance required by NRS 485.185.]~~ **of the motor vehicle**. The owner shall ~~[complete the form with]~~ **submit** all the information which is requested ~~[by]~~ **to** the Department ~~[, including whether he carries an owner’s or operator’s policy of liability insurance or a certificate of self insurance, and return the completed form]~~ within ~~[20]~~ **15** days after the date on which the ~~[form]~~ **request for information** was mailed by the Department. If the Department does not receive the ~~[completed form]~~ **requested information** within ~~[20]~~ **15** days after it mailed the ~~[form]~~ **request** to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless ~~[he submits a completed form to]~~ the Department **is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185** within ~~[15]~~ **10** days after the date on which the notice was sent by the Department, his registration will be suspended pursuant to subsection ~~[5. This subsection does not prohibit an authorized agent of the owner from providing to the Department:~~

~~(a) The information requested by the Department pursuant to this subsection.~~

~~(b) Additional information to amend or correct information already submitted to the Department pursuant to this subsection.~~

~~4. When the Department receives a completed form for verification, it shall verify the information on the form.~~

~~5.] 4.~~

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the ~~form for verification set forth in subsection 3 is:~~

~~(a) Not returned to the Department by the registered owner or his authorized agent within the period specified in that subsection;~~

~~(b) Returned to the Department by the registered owner or his authorized agent and the Department is not able to verify the information on the form; or~~

~~(c) Returned by the registered owner or his authorized agent with an admission of having no insurance or without indicating an insurer or the number of a motor vehicle liability policy or a certificate of self insurance.~~

~~6. If the Department suspends a registration pursuant to subsection 5 because:~~

~~(a) Neither the owner nor his authorized agent returned a form for verification within the specified period or the owner or his authorized agent returned a form for verification that was not completed sufficiently, and the owner or his authorized agent, thereafter:~~

~~(1) Proves to the satisfaction of the Department that there was a justifiable cause for his failure to do so;~~

~~(2) Submits a completed form regarding his insurance on the date stated in the form mailed by the Department pursuant to subsection 3; and~~

~~(3) Presents evidence of current insurance; or~~

~~(b) The owner or his authorized agent submitted to the Department a form for verification containing information that the Department was unable to verify and, thereafter, the owner or his authorized agent presents to the Department:~~

~~(1) A corrected form or otherwise verifiable evidence setting forth that the owner possessed insurance on the date stated in the form; and~~

~~(2) Evidence of current insurance;~~

~~the Department shall rescind its suspension of the registration if it is able to verify the information on the form or the other evidence presented. The Department shall not charge a fee to reinstate a registration, the suspension of which was rescinded pursuant to this subsection. For the purposes of this subsection, "justifiable cause" may include, but is not limited to, the fact that the owner did not receive the form mailed by the Department pursuant to subsection 3.~~

~~7. Except as otherwise provided in subsections 8 and 9, if a registered owner whose registration is suspended pursuant to subsection 5, failed to have insurance on the date specified in the form for verification,]~~

Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. ***Except as otherwise provided in subsection 6,*** the Department shall reinstate the registration of the vehicle and reissue the license plates only upon ~~[filing by the registered owner of evidence]~~ ***verification*** of current insurance and payment of the fee for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

~~[8.]~~ 6. If a registered owner proves to the satisfaction of the Department that his vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate his registration and, if applicable, reissue his license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate his registration or reissue his license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

~~[9.]~~ 7. If the Department suspends the registration of a motor vehicle pursuant to subsection ~~[5]~~ 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that he was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstatement of the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

↪ The Department shall adopt regulations to carry out the provisions of this subsection.

~~[10.—For the purposes of verification of insurance by the Department pursuant to this section, a motor vehicle shall be deemed to be covered by liability insurance unless the motor vehicle is without coverage for a period of more than 7 days.]~~

~~[Sec. 2.]~~ Sec. 8. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On February 1, 2010, for all other purposes.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 729.

AN ACT relating to guardianship; providing that a court may sanction certain persons who are vexatious litigants; requiring a guardian to maintain certain records for certain periods of time; adopting in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; revising certain notice requirements for guardianship proceedings; revising certain procedural requirements for the appointment of a guardian; revising the authority of certain guardians in certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the termination of a guardianship. (Chapter 159 of NRS) This bill: (1) amends various provisions relating to a guardianship; and (2) adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act promulgated by the Uniform Law Commission.

Section 4 of this bill provides that a court may determine that a petitioner is a vexatious litigant if the petitioner files a petition that is without merit more than once, and may impose sanctions against the petitioner.

Section 5 of this bill requires a guardian to keep records related to the guardianship, including financial records, for a period of 7 years.

Section 6 of this bill provides that if a ward resides with a care provider which is an institution or facility, the care provider shall furnish itemized accountings of all financial activity pertaining to the ward on a quarterly basis and as requested by the guardian.

Sections 7-20 of this bill adopt in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which was promulgated by the Uniform Law Commission in 2007. According to the Uniform Law Commission, because of increasing population mobility, cases involving simultaneous and conflicting jurisdiction over guardianship are increasing, and even when all parties agree, steps such as transferring a guardianship to another state can require that the parties start over anew in the second state. Obtaining recognition of a guardian's authority in another state in order to sell property or to arrange for a residential placement is often impossible. The Uniform Act is intended to address those problems concerning jurisdictional issues. The Uniform Act contains five articles, which are incorporated into **sections 7-20** and which address the following topics: (1) Article 1 contains definitions and provisions designed to facilitate cooperation between courts in different states; (2) Article 2 specifies which court has jurisdiction to appoint a guardian, with the objective being to locate jurisdiction in one, and only one, state except in cases of emergency or in

situations where an individual owns property located in multiple states; (3) Article 3 specifies a procedure for transferring proceedings from one state to another; (4) Article 4 addresses enforcement of orders in other states; and (5) Article 5 contains boilerplate provisions common to all uniform acts. However, **sections 7-20** do not contain, or revise, certain provisions of the Uniform Act.

Sections 25 and 42 of this bill revise the provisions relating to the persons who must receive notice of a guardianship petition. (NRS 159.034, 159.115) **Section 29** of this bill revises the information contained in a notice for petition for guardianship to include certain findings about the ward's competence. (NRS 159.044) **Sections 26-28 and 30** of this bill amend certain provisions concerning venue and jurisdiction for guardianship proceedings. (NRS 159.037, 159.039, 159.041, 159.0487) **Sections 32-34** of this bill revise the requirements concerning the supporting documentation necessary for certain petitions. (NRS 159.052, 159.0523, 159.0525) **Sections 37-41 and 43** of this bill revise the authority of a guardian to manage the estate and affairs of a ward. (NRS 159.0755, 159.076, 159.079, 159.0895, 159.113, 159.117) **Sections 44-52** of this bill revise certain provisions concerning the sale of property of a ward. (NRS 159.123, 159.134, 159.1425, 159.1435, 159.144, 159.1455, ~~159.1515,~~ 159.1535, 159.154)

~~f Sections 53 and 54 of this bill exempt certain guardians from service as a juror. (NRS 6.020)~~

Section 55 of this bill exempts certain guardianship property from a presumption of abandonment for the purposes of the statutory provisions relating to unclaimed property. (NRS 120A.500)

Section 57 of this bill revises the provisions relating to possession of the assets held by a guardian of a decedent. (NRS 143.030)

Section 58 of this bill revises the provisions governing responsibility for the repayment of certain expenses of a ward paid for by a county. (NRS 428.070)

Sections 61-64 of this bill revise provisions concerning the release of a ward who was involuntarily committed to provide that: (1) the facility must notify the guardian before the ward is released; (2) the guardian has discretion to determine where to release the ward; and (3) if the guardian does not determine where to release the ward within a certain period, the facility will release the ward according to its own plan. (NRS 433A.220, 433A.380-433A.400)

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

Sec. 2. *"Home state" means the state in which the proposed ward was physically present for at least 6 consecutive months, including any*

temporary absence from the state, immediately before the filing of a petition for the appointment of a guardian.

Sec. 3. "State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 4. 1. A court may find that a petitioner is a vexatious litigant if a person, other than the ward:

(a) Files a petition which is without merit or intended to harass or annoy the guardian; and

(b) Has previously filed pleadings in a guardianship proceeding that were without merit or intended to harass or annoy the guardian.

2. If a court finds a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the ward for all or part of the expenses incurred by the estate of the ward to defend the petition, to respond to the petition and for any other pecuniary losses which are associated with the petition.

Sec. 5. A guardian shall maintain all records and documents for each ward whom the guardian has authority over for a period of not less than 7 years after the court terminates the guardianship and shall maintain all financial records related to the guardianship for a period of not less than 7 years after the date of the last financial transaction.

Sec. 6. If a ward resides with a care provider that is an institution or facility, the care provider shall furnish to the guardian an itemized accounting of all financial activity pertaining to the ward:

1. On a quarterly basis; and

2. At any other time, upon the request of the guardian.

Sec. 7. Sections 7 to 20, inclusive, of this act may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Sec. 8. A court of this State may treat a foreign country as if it were a state for the purpose of applying sections 7 to 20, inclusive, of this act.

Sec. 9. 1. A court of this State may communicate with a court of another state concerning a proceeding arising under sections 7 to 20, inclusive, of this act. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Courts may communicate concerning schedules, calendars, court records and other administrative matters without making a record.

Sec. 10. 1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

(a) Hold an evidentiary hearing;

(b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;

(c) Order that an evaluation or assessment be made of the ward;

(d) Order any appropriate investigation of a person involved in a proceeding;

(e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);

(f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the incompetent; and

(g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 11. 1. In a guardianship proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship proceeding, a court of this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this State shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from a court of another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on NRS 52.235.

Sec. 12. 1. A court of this State has jurisdiction to appoint a guardian if:

(a) This State is the proposed ward's home state;

(b) The proposed ward holds property within this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum;

(c) *The proposed ward has a significant connection with this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum; or*

(d) *The proposed ward does not have a home state.*

2. *A court of this State lacking jurisdiction under subsection 1 has special jurisdiction to appoint a temporary guardian for a ward:*

(a) *To facilitate transfer of the guardianship proceedings from another state pursuant to sections 7 to 20, inclusive, of this act.*

(b) *In an emergency if the ward is physically present in this State, and such temporary guardianship will be terminated at the request of a court of the ward's home state before or after the emergency appointment.*

3. *Except as otherwise provided in this section, a court that has appointed a guardian consistent with sections 7 to 20, inclusive, of this act has exclusive and continuing jurisdiction over the proceedings until it is terminated by the court pursuant to NRS 159.1905 or 159.191.*

Sec. 13. 1. *A court of this State having jurisdiction to appoint a guardian may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.*

2. *If a court of this State declines to exercise its jurisdiction under subsection 1, it shall either dismiss or stay the proceedings. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian be filed promptly in another state.*

3. *In determining whether it is an appropriate forum, the court shall consider all relevant factors, including, without limitation:*

(a) *Any expressed preference of the ward;*

(b) *Whether abuse, neglect or exploitation of the ward has occurred or is likely to occur and which state could best protect the ward from the abuse, neglect or exploitation;*

(c) *The length of time the ward was physically present in or was a legal resident of this State or another state;*

(d) *The distance of the ward from the court in each state;*

(e) *The financial circumstances of the ward's estate;*

(f) *The nature and location of the evidence;*

(g) *The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;*

(h) *The familiarity of the court of each state with the facts and issues in the proceeding; and*

(i) *If an appointment were made, the court's ability to monitor the conduct of the guardian.*

Sec. 14. 1. *If at any time a court of this State determines that it acquired jurisdiction to appoint a guardian because of unjustifiable conduct by the guardian or the petitioner, the court may:*

(a) *Decline to exercise jurisdiction;*

(b) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety and welfare of the ward or the protection of the ward's property or to prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian is filed in a court of another state having jurisdiction; or

(c) Continue to exercise jurisdiction after considering:

(1) The extent to which the ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(2) Whether it is a more appropriate forum than the court of any other state; and

(3) Whether the court of any other state would have jurisdiction under factual circumstance in substantial conformity with the jurisdictional standard.

2. If a court of this State determines that it acquired jurisdiction to appoint a guardian because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including, without limitation, attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.

Sec. 15. Except for a petition for the appointment of a guardian in an emergency, if a petition for the appointment of a guardian is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

1. If the court of this State has jurisdiction under sections 7 to 20, inclusive, of this act, it may proceed with the case unless a court of another state acquires jurisdiction under provisions similar to sections 7 to 20, inclusive, of this act before the appointment.

2. If the court of this State does not have jurisdiction under sections 7 to 20, inclusive, of this act, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court of the other state. If the court of the other state has jurisdiction, the court of this State shall dismiss the petition unless the court of the other state determines that the court of this State is a more appropriate forum.

Sec. 16. 1. A guardian appointed in this State may petition the court to transfer the jurisdiction of the guardianship to another state. Notice of the petition must be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian.

2. The court shall issue an order provisionally granting the petition to transfer a guardianship and shall direct the guardian or other interested party to petition for guardianship in the other state if the court finds that:

(a) The ward is physically present in, or is reasonably expected to move permanently to, the other state;

(b) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the ward; and

(c) The plans for care and services for the ward in the other state are reasonable and sufficient.

3. The court shall issue a final order confirming the transfer and terminating the guardianship upon a petition for termination pursuant to NRS 159.1905 or 159.191 and filing of a provisional order accepting the proceeding from the court to which the proceeding is to be transferred.

Sec. 17. 1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to sections 7 to 20, inclusive, of this act to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:

(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to NRS 159.059.

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

Sec. 18. If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register and the reason for registration, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State:

1. Certified copies of the order and letters of office; and

2. A copy of the guardian's driver's license, passport or other valid photo identification card in a sealed envelope.

Sec. 19. 1. Upon registration of a guardianship, the guardian may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining

actions and proceedings in this State and, if the guardian is not a resident of this State, subject to any conditions imposed upon nonresident parties.

2. A court of this State may grant any relief available under sections 7 to 20, inclusive, of this act and other law of this State to enforce a registered order.

Sec. 20. *The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.*

Sec. 21. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 22. NRS 159.017 is hereby amended to read as follows:

159.017 "Guardian" means any person appointed under this chapter as guardian of the person, of the estate, or of the person and estate for any other person, and includes an organization under NRS 662.245 and joint appointees. The term includes, *without limitation*, a special guardian ~~[-]~~ *or, if the context so requires, a person appointed in another state who serves in the same capacity as a guardian in this State.*

Sec. 23. NRS 159.024 is hereby amended to read as follows:

159.024 "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the ~~person~~ *guardian* by blood or marriage. The term does not include:

1. A governmental agency.
2. A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

~~3. A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.~~

~~4. A trust company, as defined in NRS 669.070.~~

~~5. A court-appointed attorney licensed to practice law in this State.~~

Sec. 24. NRS 159.025 is hereby amended to read as follows:

159.025 "Proposed ward" means any person for whom proceedings for the appointment of a guardian have been initiated ~~[-]~~ *in this State or, if the context so requires, for whom similar proceedings have been initiated in another state.*

Sec. 25. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on the petition to:

- (a) Each interested person or the attorney of the interested person;
 - (b) Any person entitled to notice pursuant to this chapter or his attorney;
- ~~[and]~~

(c) Any other person who has filed a request for notice in the guardianship proceedings ~~[-];~~

(d) The proposed guardian, if the petitioner is not the proposed guardian; and

(e) Those persons entitled to notice if a proceeding were brought in the proposed ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. If the address or identity of a person required to be notified of a hearing on a petition pursuant to this section is not known and cannot be ascertained with reasonable diligence, notice must be given:

(a) By publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held at least once every 7 days for 21 consecutive days, the last publication of which must occur not later than 10 days before the date set for the hearing; or

(b) In any other manner ordered by the court, upon a showing of good cause.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 26. NRS 159.037 is hereby amended to read as follows:

159.037 1. The venue for the appointment of a guardian *when the ward's home state is this State* must be ~~[-~~

~~(a) The] the~~ county where the proposed ward resides. ~~[-; or~~

~~(b) If the proposed ward does not reside in this state, any county in which any property of the proposed ward is located, or any county in which the proposed ward is physically present.]~~

2. If the proper venue may be in two or more counties, the county in which the proceeding is first commenced is the proper county in which to continue the proceedings.

3. Upon the filing of a petition showing that the proper venue is inconvenient, a venue other than that provided in subsection 1 may accept the proceeding.

Sec. 27. NRS 159.039 is hereby amended to read as follows:

159.039 1. If proceedings for the appointment of a guardian for the same proposed ward are commenced in more than one county ~~in~~ **in this State, and the ward's home state is this State**, they shall be stayed, except in the county where first commenced, until final determination of venue in that county. If the proper venue is finally determined to be in another county, the court shall cause a transcript of the proceedings and all original papers filed therein, all certified by the clerk of the court, to be sent to the clerk of the court of the proper county.

2. A proceeding is considered commenced by the filing of a petition.

3. The proceedings first legally commenced for the appointment of a guardian of the estate or of the person and estate extends to all the property of the proposed ward which is in this state.

Sec. 28. NRS 159.041 is hereby amended to read as follows:

159.041 A court having before it any guardianship matter **for a ward whose home state is this State** may transfer the matter to another county in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian. A petition for the transfer, setting forth the reasons therefor, may be filed in the guardianship proceeding. If the court is satisfied that the transfer is in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian, the court shall make an order of transfer and cause a transcript of the proceedings in the matter, all original papers filed in such proceedings and the original bond filed by the guardian, to be certified by the clerk of the court originally hearing the matter and sent to the clerk of the court of the other county. Upon receipt of the transcript, papers and bond, and the filing of them for record, the court of the other county has complete jurisdiction of the matter, and thereafter all proceedings shall be as though they were commenced in that court.

Sec. 29. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

↪ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation ~~may~~ **must** include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State *or who is employed by the Department of Veterans Affairs* stating ~~the~~ :

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance;

(2) A letter signed by any governmental agency in this State which conducts investigations stating ~~the~~ :

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating ~~the~~ :

(I) The need for a guardian [-];

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) ~~The~~ *If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the relationship [-, if any,] of the petitioner to the proposed ward or to the proposed ward's family or friends, if any, and the interest, if any, of the petitioner in the appointment.*

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) ~~Whether~~ *If the guardianship is sought as the result of an investigation of a report of abuse, [or] neglect [that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services.*

As used in this paragraph, “agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.] *or exploitation of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.*

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

Sec. 30. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for ~~resident~~ incompetents or ~~resident~~ minors ~~[-] whose home state is this State.~~

2. Guardians of the person or of the person and estate for incompetents or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident incompetents or nonresident minors who have property within this State.

4. ~~[Guardians of the person, of the estate, or of the person and estate for incompetents or minors who previously have been appointed by the court of another state and who provide proof of the filing of an exemplified copy of the order from the court of the other state that appointed the guardian and a bond issued in this State as ordered by the court of the other state. As used in this subsection, “guardian” includes, without limitation, a conservator.~~

~~5.] Special guardians.~~

~~[6.] 5. Guardians ad litem.~~

Sec. 31. NRS 159.049 is hereby amended to read as follows:

159.049 The court may, without issuing a citation, appoint a guardian for the proposed ward if the [-

~~1.—Petitioner] petitioner is a parent who has sole legal and physical custody of the proposed ward as evidenced by a valid court order or birth certificate and who is seeking the appointment of a guardian for the minor child of the parent. If the proposed ward is a minor who is 14 years of age or older:~~

~~[(a)] 1. The petition must be accompanied by the written consent of the minor to the appointment of the guardian; or~~

~~[(b)] 2. The minor must consent to the appointment of the guardian in open court.~~

~~[2.—Petitioner is a foreign guardian of a nonresident proposed ward, and the petition is accompanied by:~~

~~(a) An exemplified copy of the record of the appointment of the foreign guardian; and~~

~~(b) Evidence of the existing authority of the foreign guardian.]~~

Sec. 32. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~[Facts which show that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention;]~~
Documentation which shows that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such

notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~subsections~~ **subsection 7**, ~~and 8,~~ if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days.]~~ **pursuant to subsection 8.**

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

- (a) The provisions of NRS 159.0475 have been satisfied; or
- (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ **The** court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 33. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a

substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~Facts which show that the proposed ward:~~

~~(1) Faces a substantial and immediate risk of physical harm or needs immediate medical attention; and~~

~~(2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention;]~~ **Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:**

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; **and**

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1. ~~]; and~~

~~(c) Finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.]~~

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~[subsections] subsection 7, [and 8.]~~ **subsection 7**, the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days.]~~ **pursuant to subsection 8** if:

(a) ~~The [certificate required by subsection 2 has been filed and the]~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; ~~[or]~~ **and**

(b) ~~[The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:~~

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3)]~~ The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

- (a) The provisions of NRS 159.0475 have been satisfied; or
- (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~In addition to any other extension granted pursuant to this section, the~~ **The** court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 34. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

- (a) ~~Facts which show that the proposed ward:~~
 - (1) ~~Is unable to respond to a substantial and immediate risk of financial loss; and~~

- (2) ~~Lacks capacity to respond to the risk of loss; and~~

- (b) **Documentation which shows that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:**

- (1) **That the proposed ward is unable to respond to a substantial and immediate risk of financial loss;**

- (2) **Whether the proposed ward can live independently with or without assistance or services; and**

- (3) **Whether the proposed ward is or has been subjected to abuse, neglect or exploitation;**

- (b) **A detailed explanation of what risks the proposed ward faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and**

- (c) Facts which show that:

- (1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

- (2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to

notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; *and*

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph ~~[(b)]~~ (c) of subsection 1. ~~;~~ *and*

~~(c) For a proposed ward who is an adult, finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.]~~

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph ~~[(b)]~~ (c) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~[subsections]~~ **subsection 7**, ~~[and 8, if the proposed ward is a minor and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss,]~~ the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days. Except as otherwise provided in subsection 7, if the proposed ward is an adult, the court may~~

extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days,] *pursuant to subsection 8* if:

(a) The ~~[certificate required by subsection 2 has been filed and the]~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; ~~[or]~~ **and**

(b) ~~[The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:~~

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of financial loss;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3)]~~ The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss ~~[]~~, ***specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the ward or to sell or dispose of tangible personal property of the ward to only that authority as needed to provide for the ward's basic living expenses until a general or special guardian can be appointed. The court may freeze any or all of the ward's accounts to protect such accounts from loss.***

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ ***The*** court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 35. NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.

2. Is a minor.

3. Has been convicted of a felony relating to the position of a guardian, unless the court finds that it is in the best interests of the ward to appoint the convicted felon as the guardian of the ward.

4. Has been suspended for misconduct or disbarred from:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state,

↪ during the period of the suspension or disbarment.

5. Is a nonresident of this State and:

(a) ~~Is not a foreign guardian of a nonresident proposed ward pursuant to subsection 2 of NRS 159.049;~~

~~(b)~~ Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and

~~(c)~~ (b) Is not a petitioner in the guardianship proceeding.

6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 36. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a ~~registered guardian or master guardian unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian be a registered guardian or master~~ *certified* guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a ~~registered guardian or master~~ *certified* guardian involved in the day-to-day operation or management of the entity. ~~[unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian have a registered guardian or master guardian involved in the day-to-day operation or management of the entity.]~~

3. As used in this section:

(a) ***"Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.***

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

~~[(b) "Master guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a master guardian.]~~

(c) "Person" means a natural person.

~~[(d) "Registered guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a registered guardian.]~~

Sec. 37. NRS 159.0755 is hereby amended to read as follows:

159.0755 If, at the time of the appointment of the guardian or thereafter, the estate of a ward consists of personal property having a value not exceeding by more than ~~[\$5,000]~~ ***\$10,000*** the aggregate amount of unpaid

expenses of administration of the guardianship estate and claims against the estate, the guardian of the estate, with prior approval of the court by order, may pay those expenses and claims from the estate and deliver all the remaining personal property to such person as the court may designate in the order, to be held, invested or used as ordered by the court. The recipient of the property so delivered shall give a receipt therefor to the guardian. The receipt is a release and acquittance to the guardian as to the property so delivered. The guardian shall file in the proceeding proper receipts or other evidence satisfactory to the court showing the delivery, and the guardian is released from his trust and his bond exonerated.

Sec. 38. NRS 159.076 is hereby amended to read as follows:

159.076 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims and expenses of the guardianship the value of the ward's property does not exceed ~~[\$5,000.]~~ **\$10,000.**

2. If the court grants a summary administration, the court may:

(a) Authorize the guardian of the estate or special guardian who is authorized to manage the ward's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall deposit the money in savings accounts or invest the money as provided in NRS 159.117, and hold the investment and all interest, issues, dividends and profits for the benefit of the ward. The court may dispense with annual accountings and all other proceedings required by this chapter.

(b) If the ward is a minor, terminate the guardianship of the estate and direct the guardian to deliver the ward's property to the custodial parent or parents, guardian or custodian of the minor to hold, invest or use as the court may order.

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the ward exceeds ~~[\$5,000.]~~ **\$10,000:**

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court may require the guardian to post a bond.

Sec. 39. NRS 159.079 is hereby amended to read as follows:

159.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the ward, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the ward, including, ***without limitation***, the following:

(a) Supplying the ward with food, clothing, shelter and all incidental necessities ~~[-]~~, ***including locating an appropriate residence for the ward.***

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.

(c) Seeing that the ward is properly trained and educated and that the ward has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the ward. A guardian of the person is not required to incur expenses on behalf of the ward except to the extent that the estate of the ward is sufficient to reimburse the guardian.

3. *A guardian of the person is the ward's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the ward's health care or health insurance.*

4. *A guardian of the person may establish and change the residence of the ward at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the ward and which is financially feasible.*

5. *A guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the ward to a location outside of this State. The guardian must show that the placement outside of this State is in the best interest of the ward or that there is no appropriate residence available for the ward in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to NRS 159.1905 or 159.191 or the jurisdiction of the guardianship is transferred to the other state.*

6. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

Sec. 40. NRS 159.0895 is hereby amended to read as follows:

159.0895 1. The guardian may retain assets for the anticipated expense of the ward's funeral and the disposal of his remains. Of the amount so retained, ~~[\$1,500]~~ **\$3,000** is exempt from all claims, including those of this state.

2. The guardian may place assets so retained in a pooled account or trust. If the assets are invested in a savings account or other financial account, they are not subject to disposition as unclaimed property during the lifetime of the ward.

3. Assets so retained may be disbursed for the ward's funeral or the disposal of his remains without prior authorization of the court. An amount not so disbursed becomes part of the ward's estate.

Sec. 41. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian *of the estate* shall petition the court for an order authorizing the guardian to:

- (a) Invest the property of the ward pursuant to NRS 159.117.
- (b) Continue the business of the ward pursuant to NRS 159.119.
- (c) Borrow money for the ward pursuant to NRS 159.121.
- (d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.
- (e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.
- (f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.
- (g) Exchange or partition the ward's property pursuant to NRS 159.175.
- (h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.
- (i) Exercise or release the power of the ward as a donee of a power of appointment.
- (j) ~~Change the state of residence or domicile of the ward.~~
- ~~(k)~~ Exercise the right of the ward to take under or against a will.
- ~~(l)~~ **(k)** Transfer to a trust created by the ward any property unintentionally omitted from the trust.
- ~~(m)~~ **(l)** Submit a revocable trust to the jurisdiction of the court if:
 - (1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or
 - (2) The trust was created by the court.
- ~~(n)~~ **(m)** Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.
- (n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.**

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

- (a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.
- (b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

- (a) The name, age, residence and address of the ward.
- (b) A concise statement as to the condition of the ward's estate.
- (c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

Sec. 42. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider ~~having the care, custody or control of~~ **who is providing care for the ward** ~~[-]~~, **except that if the person or care provider is not related to the ward, such person or provider must not be given copies of any inventory or accounting.**

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

Sec. 43. NRS 159.117 is hereby amended to read as follows:

159.117 1. Upon approval of the court by order, a guardian of the estate may:

(a) Invest the property of the ward, make loans and accept security therefor, in the manner and to the extent authorized by the court.

(b) Exercise options of the ward to purchase or exchange securities or other property.

2. A guardian of the estate may, without securing the prior approval of the court, invest the property of the ward in the following:

(a) Savings accounts in any bank, credit union or savings and loan association in this State, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(b) Interest-bearing obligations of or fully guaranteed by the United States.

(c) Interest-bearing obligations of the United States Postal Service.

(d) Interest-bearing obligations of the Federal National Mortgage Association.

(e) Interest-bearing general obligations of this State.

(f) Interest-bearing general obligations of any county, city or school district of this State.

(g) Money market mutual funds which are invested only in those instruments listed in paragraphs (a) to (f), inclusive.

3. A guardian of the estate for two or more wards may invest the property of two or more of the wards in property in which each ward whose property is so invested has an undivided interest. The guardian shall keep a separate record showing the interest of each ward in the investment and in the income, profits or proceeds therefrom.

4. Upon approval of the court, for a period authorized by the court, a guardian of the estate may maintain the assets of the ward in the manner in which the ward had invested the assets before the ward's incapacity.

5. A guardian of the estate may access or manage a guardianship account via the Internet on a secured website established by the bank, credit union or broker holding the account.

Sec. 44. NRS 159.123 is hereby amended to read as follows:

159.123 If a ward for whom a guardian of the estate is appointed was, at the time of the appointment, a party to a contract which has not been fully performed, and which was made by the ward while not under any legal disability, the guardian of the estate, with prior approval of the court by order, may complete the performance of such contract. If such contract requires the conveyance of any real or personal property, or any interest in such property, the court may authorize the guardian to convey the interest and estate of the ward in the property, and the effect of such conveyance shall be the same as though made by the ward while not under legal disability. ***If the contract requires a sale, no notice of sale is required under this section unless otherwise ordered by the court.***

Sec. 45. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be:

(a) Reported to the court; and
(b) Confirmed by the court before the title to the real property passes to the purchaser.

2. The report and a petition for confirmation of the sale must be filed with the court not later than 30 days after the date of each sale.

3. The court shall set the date of the hearing and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the sale. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections.

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425, 159.1435 and 159.144 ~~[-]~~, ***unless the sale was exempt from notice pursuant to NRS 159.123.***

Sec. 46. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS ***159.123*** or 159.142, a guardian may sell the real property of a ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or
(b) If a newspaper is not published in that county:
(1) In a newspaper of general circulation in the county; or
(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS **159.123 or** 159.142:

(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a value of ~~[\$5,000]~~ **\$10,000** or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before:

(a) The date of the sale at public auction; or

(b) The date on which offers will be accepted for a private sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) For a public auction:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location of the auction.

(b) For a private sale:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location that offers will be accepted.

Sec. 47. NRS 159.1435 is hereby amended to read as follows:

159.1435 1. Except for a sale pursuant to NRS **159.123 or** 159.142, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Sec. 48. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS **159.123 or** 159.142, a sale of real property of a guardianship estate at a private sale:

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a private sale:

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time:

(1) After the date of the first publication or posting of the notice; and

(2) Before the date on which the sale is to occur.

Sec. 49. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate at a private sale unless:

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) ~~The~~ **Except for a sale of real property pursuant to NRS 159.123, the** real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS 159.086 and 159.0865 at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.

Sec. 50. ~~NRS 159.1515 is hereby amended to read as follows:~~

~~159.1515 1. A guardian may sell perishable property and other personal property of the ward without notice, and title to the property passes without confirmation by the court if the property:~~

~~(a) Will depreciate in value if not disposed of promptly; [or]~~

~~(b) Will incur loss or expense by being kept [.] ; or~~

~~(c) Is less than \$10,000 net value after deduction of all liens against the property.~~

~~2. The guardian is responsible for the actual value of the personal property unless the guardian obtains confirmation by the court of the sale.~~

(Deleted by amendment.)

Sec. 51. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section:

(a) The notice of a public sale ~~of a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than \$10,000 in net value~~ must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale ~~of a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than \$10,000 in net value~~ must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. ~~The notice of a public or private sale of household furnishings, clothing, artwork, jewelry, collectibles and other personal property which does not require transfer of title or registration and which is greater than \$10,000 in net value must be published not less than one time, the publication being not less than 8 days before the sale.~~

~~4.~~ For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. ~~5.~~ The notice must include, without limitation:

(a) For a public sale:

(1) A description of the personal property to be sold; and

(2) The date, time and location of the sale.

(b) For a private sale:

(1) A description of the personal property to be sold; and

(2) The date, time and location that offers will be accepted.

(c) **For a sale on an appropriate auction website on the Internet:**

(1) **A description of the personal property to be sold;**

(2) **The date the personal property will be listed; and**

(3) **The Internet address of the website on which the sale will be posted.**

Sec. 52. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward by public sale at:

(a) The residence of the ward; **or**

(b) ~~The courthouse door;~~ **or**

~~(e)}~~ Any other location designated by the guardian.

2. The guardian may sell the personal property by public sale only if the property is made available for inspection at the time of the sale ~~[- unless the court orders otherwise.]~~ ***or photographs of the personal property are posted on an appropriate auction website on the Internet.***

3. Personal property may be sold at a public or private sale for cash or upon credit.

Sec. 53. ~~[NRS 6.020 is hereby amended to read as follows:~~

~~6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following named persons, and no others, are exempt from service as grand or trial jurors:~~

~~(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau;~~

~~(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive; [and]~~

~~(c) Any police officer as defined in NRS 617.135 [.]; and~~

~~(d) Any person serving as a guardian for three or more persons.~~

~~2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~

~~3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.] (Deleted by amendment.)~~

Sec. 54. ~~[NRS 6.020 is hereby amended to read as follows:~~

~~6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following named persons, and no others, are exempt from service as grand or trial jurors:~~

~~(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau; [and]~~

~~(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive; and~~

~~(c) Any person serving as a guardian for three or more persons.~~

~~2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~

~~3.— A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires. (Deleted by amendment.)~~

Sec. 55. NRS 120A.500 is hereby amended to read as follows:

120A.500 1. ~~Property~~ *Except as otherwise provided in subsection 6, property* is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

- (a) A traveler's check, 15 years after issuance;
- (b) A money order, 7 years after issuance;
- (c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;
- (d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;
- (e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;
- (f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;
- (g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;
- (h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;
- (i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the

proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. *The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:*

- (a) *An account or asset managed through a guardianship;***
- (b) *An account blocked at the direction of a court;***
- (c) *A trust account established to address a special need;***
- (d) *A qualified income trust account;***
- (e) *A trust account established for tuition purposes;***
- (f) *A trust account established on behalf of a client; and***
- (g) *An account or fund established to meet the costs of burial.***

Sec. 56. NRS 143.020 is hereby amended to read as follows:

143.020 Except as otherwise provided in NRS **143.030 and** 146.010, a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to keep in good tenable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

Sec. 57. NRS 143.030 is hereby amended to read as follows:

143.030 1. A personal representative shall take into possession all the estate of the decedent, real and personal, except that exempted as provided in this title, and shall collect all receivables due the decedent or the estate.

2. For the purpose of bringing actions to quiet title or for partition of the estate, the possession of the personal representative shall be deemed the possession of the heirs or devisees. The possession of heirs or devisees is subject, however, to the possession of the personal representative for all other purposes.

3. *A personal representative shall not take into possession any assets held by a guardian of the decedent pursuant to chapter 159 of NRS until the guardianship is terminated according to the provisions of NRS 159.1905 or 159.191 and the guardian is ordered to distribute the assets to the personal representative.*

Sec. 58. NRS 428.070 is hereby amended to read as follows:

428.070 1. The father ~~{ }~~ or mother ~~{ }~~ ~~{ children, brothers or sisters, }~~ of sufficient financial ability so to do ~~{ }~~ shall pay to the county which has extended county hospitalization to any ~~{person}~~ **natural child** under the provisions of NRS 428.030 ~~{ }~~ the amount granted to such ~~{person}~~ **natural child**.

2. *The child of a natural parent receiving county hospitalization pursuant to NRS 428.030 is not liable for the amount paid by the county for that parent, except where the natural child promised to support his*

natural parent in writing, has access to and control of his natural parent's assets or income and has sufficient financial ability to support his natural parent.

3. A recipient of aid under the provisions of NRS 428.030 who later acquires sufficient financial ability so to do shall reimburse the county which extended county hospitalization to him for any unpaid portion of the aid granted. Action against the relatives of such person is not a condition precedent to action against him.

~~{3}~~ 4. *The father, mother or child of sufficient financial ability, as appropriate, shall pay to the county the amount the county paid for the burial, entombment or cremation of a natural child or a natural parent.*

5. The board of county commissioners shall advise the Attorney General of the failure of a responsible person to pay such amount and the Attorney General shall cause appropriate legal action to be taken to enforce the collection of all or part of such amount. If suit is filed to enforce the collection, the court shall determine the question of the sufficiency of the financial ability of the person against whom such action is filed, but the board of county commissioners shall determine the responsible person to be sued, and failure of an action against one such person shall not preclude subsequent or concurrent actions against others.

6. *In determining the amount to be ordered for support pursuant to subsections 2 and 4, the court shall consider the circumstances of each party, including:*

- (a) *The earning capacity and needs of each party;*
- (b) *The obligations and assets of each party;*
- (c) *The age and health of each party;*
- (d) *The relationship between the parties; and*
- (e) *Any other factor which the court deems just and equitable.*

Sec. 59. NRS 433.504 is hereby amended to read as follows:

433.504 1. A client *or his legal guardian* must be:

- (a) Permitted to inspect ~~{his}~~ *the client's* records; and
- (b) Informed of ~~{his}~~ *the client's* clinical status and progress at reasonable intervals of no longer than 3 months in a manner appropriate to his clinical condition.

2. Unless a psychiatrist has made a specific entry to the contrary in a client's records, a client *or his legal guardian* is entitled to obtain a copy of his records at any time upon notice to the administrative officer of the facility and payment of the cost of reproducing the records.

Sec. 60. NRS 433A.190 is hereby amended to read as follows:

433A.190 Within 24 hours of a person's admission under emergency admission, the administrative officer of a public or private mental health facility shall give notice of such admission *in person, by telephone or facsimile and* by certified mail to the spouse or legal guardian of that person.

Sec. 61. NRS 433A.220 is hereby amended to read as follows:

433A.220 1. Immediately after he receives any petition filed pursuant to NRS 433A.200 or 433A.210, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be within 5 judicial days after the date on which the petition is received by the clerk.

2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his attorney, if known, *the person's legal guardian*, the petitioner, the district attorney of the county in which the court has its principal office, the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illness and the administrative office of any public or private mental health facility in which the subject of the petition is detained.

3. The provisions of this section do not preclude a facility from discharging a person before the time set pursuant to this section for the hearing concerning the person, if appropriate. *If the person has a legal guardian, the facility shall notify the guardian prior to discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

Sec. 62. NRS 433A.380 is hereby amended to read as follows:

433A.380 1. Except as otherwise provided in subsection 4, any person involuntarily admitted by a court may be conditionally released from a public or private mental health facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the person and will not be detrimental to the public welfare. The medical director or his designee of the facility shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment pursuant to NRS 433A.310. *If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

2. When a person is conditionally released pursuant to subsection 1, the State or any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person.

3. When a person who has been adjudicated by a court to be incompetent is conditionally released from a mental health facility, the administrative

officer of the mental health facility shall petition the court for restoration of full civil and legal rights as deemed necessary to facilitate the incompetent person's rehabilitation. ***If the person has a legal guardian, the petition must be filed with the court having jurisdiction over the guardianship.***

4. A person who was involuntarily admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him, ***to the person's legal guardian*** and to the district attorney of the county in which the proceedings for admission were held.

5. Except as otherwise provided in subsection 7, the administrative officer of a public or private mental health facility or his designee shall order a person who is conditionally released from that facility pursuant to this section to return to the facility if a psychiatrist and a member of that person's treatment team who is professionally qualified in the field of psychiatric mental health determine, pursuant to NRS 433A.115, that the conditional release is no longer appropriate because that person presents a clear and present danger of harm to himself or others. Except as otherwise provided in this subsection, the administrative officer or his designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the person to the facility ~~and~~ ***and to the person's legal guardian***. If an emergency exists in which the person presents an imminent threat of danger of harm to himself or others, the order must be submitted to the court ***and the legal guardian*** not later than 1 business day after the order is issued.

6. The court shall review an order submitted pursuant to subsection 5 and the current condition of the person who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for involuntary court-ordered admissions, but in no event later than 5 judicial days after the person is returned to the facility. The administrative officer or his designee shall give written notice to the person who was ordered to return to the facility, ***to the person's legal guardian*** and to his attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

7. The provisions of subsection 5 do not apply if the period of conditional release has expired.

Sec. 63. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a client, involuntarily admitted to a mental health facility by court order, is released at the end of the time specified pursuant to NRS 433A.310, written notice must be given to the admitting court ***and to the client's legal guardian*** at least 10 days before the release of the client. The client may then be released without requiring further orders of the court. ***If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the***

guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.

2. An involuntarily court-admitted client may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the client has recovered from his mental illness or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court ***and to the client's legal guardian*** at least 10 days before the release of the client. ***If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.***

Sec. 64. NRS 433A.400 is hereby amended to read as follows:

433A.400 1. An indigent resident of this state discharged as having recovered from his mental illness, but having a residual medical or surgical disability which prevents him from obtaining or holding remunerative employment, ~~shall~~ ***must*** be returned to the county of his last residence ~~[-]~~, ***except as otherwise provided pursuant to subsection 2.*** A nonresident indigent with such disabilities ~~shall~~ ***must*** be returned to the county from which he was involuntarily court-admitted ~~[-]~~, ***except as otherwise provided in subsection 2.*** The administrative officer of the mental health facility shall first give notice in writing, not less than 10 days ~~prior to~~ ***before*** discharge, to the board of county commissioners of the county to which the person will be returned ~~[-]~~ ***and to the person's legal guardian.***

2. Delivery of the indigent ~~[resident defined in subsection 1 shall]~~ ***person must*** be made to an individual or agency authorized to provide further care. ***If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.***

3. This section does not authorize the release of any person held upon an order of a court or judge having criminal jurisdiction arising out of a criminal offense.

Sec. 65. NRS 159.0365 is hereby repealed.

Sec. 66. ~~1. This section and sections 1 to 53, inclusive, and 55 to 65, inclusive, of this act become effective on October 1, 2009.~~

~~2. Section 53 of this act expires by limitation on June 30, 2011.~~

~~3. Section 54 of this act becomes effective on July 1, 2011.~~ **(Deleted by amendment.)**

TEXT OF REPEALED SECTION

159.0365 Proceedings pending in another state.

1. If the court has reason to believe that guardianship proceedings may be pending in another state concerning a ward or proposed ward, the court may order communication with the court in the other state:

- (a) To determine the involvement or interest of each jurisdiction;
- (b) To promote cooperation, expand the exchange of information and provide any other form of assistance; and
- (c) To determine the appropriate jurisdiction for the proceedings.

2. As used in this section, "guardianship" includes, without limitation, a conservatorship.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegueda moved that Assembly Bills Nos. 65, 146, 148, and 497 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 378 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Smith moved that Senate Bill No. 186 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 497.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 836.

AN ACT relating to the criminal justice system; providing for the collection and sharing of certain statistical data and information relating to the criminal justice system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Corrections and the Division of Parole and Probation of the Department of Public Safety to provide certain information to the Advisory Commission on the Administration of Justice and to assist the Commission in carrying out its statutory duties. (NRS 176.0127) **Section 1** of this bill requires the Central Repository for Nevada Records of Criminal History to ~~[(1) compile and maintain records, reports and compilations of statistical data and information submitted by agencies of criminal justice within this State; (2) facilitate the efficient and timely exchange of necessary data, information, records, reports and compilations among the various agencies of criminal justice within this State; and (3)] facilitate the collection of statistical data, coordinate the exchange of such data with certain other entities involved in criminal justice and provide the Commission with ~~[any]~~ available statistical data, information and research requested by the Commission.~~

Section 3 of this bill requires the Department of Corrections to provide information and research to the Commission concerning rates of recidivism and the effectiveness of educational and vocational programs. ~~[Section 4 of this bill requires each agency of criminal justice within this State that has such data or information in its possession to: (1) maintain records, reports and compilations of statistical data and information regarding domestic violence, specialty court programs, rates of recidivism, and the effectiveness and operation of educational and vocational programs for criminal offenders; and (2) submit such data and information to the Central Repository, which will provide the data and information to the Commission pursuant to section 1 of this bill.]~~

Section 5 of this bill ~~[(1)]~~ requires the Court Administrator to ~~[assist the State Court System in collecting statistical data and other information and making reports relating to the operation of the criminal justice system in this State; and (2)] compile statistical information concerning criminal cases and include certain statistics regarding specialty court programs in the report that the Court Administrator is required to provide to the Legislature before each legislative session concerning specialty court programs. Section 5 also deletes obsolete statutory language referring to a report that was required to be made to the Legislature in 2007.~~

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

The Central Repository for Nevada Records of Criminal History shall:

1. ~~Compile and maintain records, reports and compilations of statistical data and information submitted pursuant to NRS 179A.075.~~

2. ~~To facilitate the efficient and timely exchange of necessary data, information, records, reports and compilations, coordinate~~ **Facilitate the collection of statistical data in the manner approved by the Director of the Department of Public Safety and coordinate the exchange of such data with agencies of criminal justice within this State, including:**

(a) State and local law enforcement agencies;

(b) ~~Prosecutors;~~

~~(c) The Office of the Attorney General;~~

~~(d) (c) The Judicial Branch of State Government;~~ **Court Administrator;**

~~(e) (d) The Department of Corrections; and~~

~~(f) (e) The Division.~~

~~2. Provide the Commission with any available statistical data, and information and research requested by the Commission.~~

Sec. 2. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, **and section 1 of this act**, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 3. NRS 176.0127 is hereby amended to read as follows:

176.0127 1. ~~The In addition to providing the statistical data and information required to be submitted pursuant to NRS 179A.075, the~~ Department of Corrections shall:

(a) Provide the Commission with any available statistical information or research requested by the Commission and assist the Commission in the compilation and development of information requested by the Commission, including, but not limited to, information or research concerning the facilities and institutions of the Department of Corrections, the offenders who are or were within those facilities or institutions, **rates of recidivism, the effectiveness of educational and vocational programs** and the sentences which are being served or were served by those offenders;

(b) If requested by the Commission, make available to the Commission the use of the computers and programs which are owned by the Department of Corrections; and

(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.

2. ~~The In addition to providing the statistical data and information required to be submitted pursuant to NRS 179A.075, the~~ Division shall:

(a) Provide the Commission with any available statistical information or research requested by the Commission and assist the Commission in the compilation and development of information concerning sentencing,

probation, parole and any offenders who are or were subject to supervision by the Division;

(b) If requested by the Commission, make available to the Commission the use of the computers and programs which are owned by the Division; and

(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.

Sec. 4. ~~NRS 179A.075 is hereby amended to read as follows:~~

~~179A.075—1.—The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.~~

~~2.—Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:~~

~~(a) Collect and maintain records, reports and compilations of statistical data required by the Department. [; and]~~

~~(b) To the extent that the agency has such statistical data and information in its possession, maintain records, reports and compilations of statistical data and information concerning the following:~~

~~(1) Domestic violence as described in NRS 33.018;~~

~~(2) Specialty court programs as defined in NRS 176.0613;~~

~~(3) Rates of recidivism of criminal offenders; and~~

~~(4) The effectiveness and operation of educational and vocational programs for criminal offenders, including any such programs for probationers, inmates in state and local correctional facilities, and parolees.~~

~~(c) Submit the statistical data and information collected pursuant to paragraphs (a) and (b) to the Central Repository in the manner approved by the Director of the Department.~~

~~3.—Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:~~

~~(a) Through an electronic network;~~

~~(b) On a medium of magnetic storage; or~~

~~(c) In the manner prescribed by the Director of the Department;~~

~~within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.~~

~~4.—The Division shall, in the manner prescribed by the Director of the Department:~~

~~(a) Collect, maintain and arrange all information submitted to it relating to:~~

~~(1) Records of criminal history; and~~

~~(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.~~

~~(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him.~~

~~(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.~~

~~5.—The Division may:~~

~~(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;~~

~~(b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and~~

~~(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:~~

~~(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;~~

~~(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;~~

~~(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;~~

~~(4) For whom such information is required to be obtained pursuant to NRS 426.335 and 449.179; or~~

~~(5) About whom any agency of the State of Nevada or any political subdivision thereof has a legitimate need to have accurate personal information for the protection of the agency or the persons within its jurisdiction.~~

~~To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.~~

~~6.—The Central Repository shall:~~

~~(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.~~

~~(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.~~

~~(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.~~

~~(d) Investigate the criminal history of any person who:~~

~~(1) Has applied to the Superintendent of Public Instruction for a license;~~

~~(2) Has applied to a county school district, charter school or private school for employment; or~~

~~(3) Is employed by a county school district, charter school or private school;~~

~~and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.~~

~~(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:~~

~~(1) Investigated pursuant to paragraph (d); or~~

~~(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation;~~

~~who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.~~

~~(f) Investigate the criminal history of each person who submits fingerprints or has his fingerprints submitted pursuant to NRS 426.335, 449.176 or 449.179.~~

~~(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.~~

~~(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.~~

~~(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2, and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.~~

~~7. The Central Repository may:~~

~~(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.~~

~~(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.~~

~~(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.~~

~~8. As used in this section:~~

~~(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:~~

~~(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and~~

~~(2) The fingerprints, voiceprint, retina image and iris image of a person.~~

~~(b) "Private school" has the meaning ascribed to it in NRS 394.103.]~~

(Deleted by amendment.)

Sec. 5. NRS 1.360 is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that

information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 regarding criminal and civil cases and make reports as to the cases filed in the district courts;

9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;

10. ~~Assist the State Court System in collecting statistical data and other information and making reports relating to the operation of the criminal justice system in this State;~~

~~11.~~ On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

11. ~~12.~~ On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:

(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) Statistics compiled from information required to be maintained by clerks of the district courts pursuant to NRS 3.275 concerning specialty courts, including, without limitation, the number of participants in such programs, the nature of the criminal charges that were filed against participants, the number of participants who have completed the programs and the disposition of the cases.

(d) Such other related information as the Court Administrator deems appropriate;

12. ~~13.~~ On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;

~~13. On or before February 15, 2007, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018;]~~ and

~~14.]~~ **13.** Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.

Sec. 5.5. NRS 3.275 is hereby amended to read as follows:

3.275 1. The clerk of each district court shall obtain and file information regarding the nature of each *criminal and* civil case filed with the district court. **If the criminal case is referred to a specialty court program, the clerk must obtain and file information regarding the nature of the case and the program to which the defendant was referred.**

2. The clerk shall provide a form approved by the Court Administrator for obtaining the information required by subsection 1. No *criminal or* civil case may be filed in the district court unless the initial pleading is accompanied by the form, signed by the initiating party or his representative. **In addition to the information on the form, the clerk shall maintain information concerning the disposition of each criminal case and, if applicable, whether the defendant successfully completed a specialty court program.**

3. The clerk shall maintain the information contained in the form **and collected pursuant to subsection 2** in a separate system of filing to allow the retrieval of statistics relating to ~~the number, nature and date of~~ each **criminal and** civil action filed in the district courts.

Sec. 6. This act becomes effective on July 1, 2010.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 148.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 811.

AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 10 of this bill requires: (1) supervisory employees working on a construction site to complete a specified 30-hour health and safety course not later than 15 days after being hired; and (2) all other construction workers

working on the construction site to complete a specified 10-hour course not later than 15 days after being hired.

Section 8 of this bill ~~allows~~ **requires** the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses which may be used to fulfill the requirements of **section 10**. **Section 8.5 of this bill requires providers of approved courses to display the card evidencing their authorization by the Occupational Safety and Health Administration of the United States Department of Labor to provide such a course at the location at which the course is being provided.**

Section 11 of this bill requires employers to terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required training not later than 15 days after being hired. **Section 12** of this bill provides for administrative fines for employers who continue to employ certain employees on a construction site after the 15-day period if those employees have not obtained the required training.

Section 15 of this bill: (1) allows employees to satisfy the requirements of section 10 of this bill by completing an alternative course offered by their employer; (2) requires an employee that satisfies the requirements of section 10 by completing an alternative course to take an approved course before January 1, 2011; and (3) requires an employer to maintain and make available to the Division of Industrial Relations a record of all employees that have completed an alternative course until a date to be established by the Division by regulation.

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

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, ~~inclusive,~~ unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act, ~~inclusive,~~ have the meanings ascribed to them in those sections.*

Sec. 3. *"Construction site" means any location at which construction work is being commenced or is in progress.*

Sec. 3.5. *1. "Construction worker" means a person who actually performs physical work at a construction site:*

~~1. To accomplish~~

(a) That results in the construction, alteration or destruction involved in the construction project, ~~and~~, including, without limitation, painting and decorating; or

~~2. Who supervises any person engaged in work described in subsection 1. paragraph (a).~~

2. The term does not include a person to the extent that the person performs or supervises another person who performs work which is conducted:

(a) For the upkeep of an existing property for which a certificate of occupancy has been issued by the appropriate building inspector or other authority; and

(b) To prevent the property from degrading, to maintain the property in its original condition or to maintain the operational soundness of the property, including, without limitation, by repairing components of the property or by replacing components of the property with the same or similar components.

Sec. 4. "OSHA-10 ~~10~~ course" means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.

Sec. 5. "OSHA-30 ~~30~~ course" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.

Sec. 6. "Supervisory employee" means any person having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.

Sec. 6.5. The provisions of sections 2 to 12, inclusive, of this act do not apply to:

1. The Department of Transportation; or
2. An employee of the Department of Transportation while performing his duties as an employee of the Department.

Sec. 7. The Division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.

Sec. 8. 1. The Division ~~may~~ shall, by regulation, approve OSHA-10 ~~10~~ courses and OSHA-30 courses for the purposes of fulfilling the requirements of section 10 of this act.

2. The Division shall establish a registry to track the providers of courses approved pursuant to subsection 1.

3. The Division shall adopt regulations that set forth guidelines for job-specific training to qualify as continuing education for the purposes of section 10 of this act.

Sec. 8.5. 1. Each trainer shall display his trainer card in a conspicuous manner at each location where he provides an OSHA-10 course or OSHA-30 course.

2. No person other than a trainer may provide an OSHA-10 course or OSHA-30 course.

3. As used in this section:

(a) "Trainer" means a person who is currently authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, a person who has completed OSHA 500, the Trainer Course for the Construction Industry.

(b) "Trainer card" means the card issued upon completion of OSHA 500, the Trainer Course for the Construction Industry, which reflects the authorization of the holder by the Occupational Safety and Health Administration of the United States Department of Labor to provide OSHA-10 courses and OSHA-30 courses.

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must ~~obtain an OSHA-10~~:

(a) Obtain a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act ~~+~~; or

(b) Complete an OSHA-10 alternative course which is offered by his employer.

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~obtain an OSHA-30~~:

(a) Obtain a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act ~~+~~; or

(b) Complete an OSHA-30 alternative course which is offered by his employer.

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued ~~+~~ and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

4. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~present~~:

(a) Present his employer with a current and valid ~~OSHA-10~~ completion card for an OSHA-10 course; or

(b) Complete an OSHA-10 alternative course offered by his employer,
 ↪ not later than 15 days after being hired, his employer shall terminate his employment.

2. If a supervisory employee on a construction site fails to ~~present~~:

(a) Present his employer with a current and valid ~~OSHA-30~~ completion card for an OSHA-30 course; or

(b) Complete an OSHA-30 alternative course offered by his employer,
 ↪ not later than 15 days after being hired, his employer shall terminate his employment.

3. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for

an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

Sec. 12. 1. *If the Division finds that an employer has failed to terminate an employee as required by section 11 of this act, it shall:*

(a) *Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$500.*

(b) *Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$1,000.*

(c) *Upon the third and each subsequent violation, impose upon the employer the penalty provided in NRS 618.635 as if the employer had committed a willful violation.*

2. *For the purposes of this section, any number of violations discovered in a single day constitute a single violation.*

3. *Before a fine or any other penalty is imposed upon an employer pursuant to this section, the Division must follow the procedures set forth in this chapter for the issuance of a citation, including, without limitation, the procedures set forth in NRS 618.475 for notice to the employer and an opportunity for the employer to contest the violation.*

Sec. 13. Section 10 of this act is hereby amended to read as follows:

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must ~~✕~~

~~(a) Obtain~~ **obtain** a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~✕~~

~~(b) Complete an OSHA 10 alternative course which is offered by his employer.~~

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~✕~~

~~(a) Obtain~~ **obtain** a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~✕~~

~~(b) Complete an OSHA 30 alternative course which is offered by his employer.~~

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

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

~~(a) "OSHA 10 alternative course" means a 10-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

~~(b) "OSHA 30 alternative course" means a 30-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

Sec. 14. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~¶~~

~~(a) Present~~ **present** his employer with a current and valid completion card for an OSHA-10 course, ~~¶ or~~

~~(b) Complete an OSHA 10 alternative course offered by his employer,~~ ~~¶~~ not later than 15 days after being hired, his employer shall terminate his employment.

2. If a supervisory employee on a construction site fails to ~~¶~~

~~(a) Present~~ **present** his employer with a current and valid completion card for an OSHA-30 course, ~~¶ or~~

~~(b) Complete an OSHA 30 alternative course offered by his employer,~~ ~~¶~~ not later than 15 days after being hired, his employer shall terminate his employment.

~~{3. As used in this section:~~

~~(a) "OSHA 10 alternative course" means a 10-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 10 course, including, without limitation, federal safety and health~~

~~regulatory requirements specific to the industry in which the employer participates.~~

~~(b) "OSHA 30 alternative course" means a 30 hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.]~~

Sec. 15. 1. Not later than January 1, 2011, an employee that satisfies the requirements of subsection 1 or 2 of section 10 of this act by completing an OSHA-10 alternative course or OSHA-30 alternative course, as defined in section 10 of this act, must complete an OSHA-10 course or OSHA-30 course, as defined in sections 4 and 5 of this act, as applicable, in order to continue to satisfy the requirements of subsection 1 or 2 of section 10 of this act.

2. An employer shall maintain a record of all employees that have completed an OSHA-10 alternative course or OSHA-30 alternative course offered by the employer and the date upon which the employee completed the course. The employer shall make the record available at all times for inspection by the Division of Industrial Relations of the Department of Business and Industry and its authorized agents.

3. The Division of Industrial Relations shall, by regulation, establish the length of time that an employer must maintain the record described in subsection 2.

Sec. 16. 1. This section and sections 1 to 12, inclusive, and 15 of this act become effective on January 1, 2010.

2. Sections 13 and 14 of this act become effective on January 1, 2011.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 146.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 829.

AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring certain responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides for the establishment of a state business portal by the Secretary of State to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal. The Secretary of State is required to: (1) establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal; (2) establish the standards and requirements necessary for a state or local agency to participate in the state business portal; (3) authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation; (4) determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal; and (5) adopt regulations and take any appropriate action as necessary to provide for the establishment, operation and maintenance of the state business portal.

Section 3 of this bill authorizes the Secretary of State, within the limit of money authorized to him and subject to the approval of the State Board of Examiners, to enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal.

Section 4 of this bill provides that the Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to provide for the establishment, operation and maintenance of the state business portal.

Sections 6-18 of this bill transfer certain duties and responsibilities concerning the issuance of state business licenses from the Department of Taxation to the Secretary of State. (NRS 360.760-360.798)

Section 45.5 of this bill makes an appropriation for the design and implementation of the state business portal.

WHEREAS, Historically, various state and local governmental agencies have often required businesses to submit various applications for necessary licenses, permits and approvals, through the use of numerous forms and formats and multiple web sites, as determined by those separate agencies; and

WHEREAS, Advances in information technology enable governmental agencies to make the exchange of information from business to government, from government to business, and across governmental agencies more efficient and effective for all parties; and

WHEREAS, States that make required transactions among businesses and governmental agencies faster, easier and cheaper than other states provide a competitive advantage for businesses under their jurisdiction and thereby encourage economic development within their jurisdiction; and

WHEREAS, The State of Nevada should strive to become the national leader for online interaction between business and government; and

WHEREAS, The establishment of a state business portal by the Secretary of State would provide a single, secure portal for the transaction of business and would improve efficiency, eliminate redundancy, streamline the establishment of businesses, improve accountability and enhance economic development in this State; now, therefore,

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

Section 1. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. **1. *The Secretary of State shall provide for the establishment of a state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal.***

2. *The Secretary of State shall:*

(a) *Establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal;*

(b) *Establish the standards and requirements necessary for a state or local agency to participate in the state business portal;*

(c) *Authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation;*

(d) *Determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal; and*

(e) *Adopt such regulations and take any appropriate action as necessary to carry out the provisions of this chapter.*

Sec. 3. ***Within the limit of money authorized to him and subject to the approval of the State Board of Examiners, the Secretary of State may enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal and carrying out the provisions of this chapter.***

Sec. 4. ***The Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this chapter.***

Sec. 5. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 6 to 18, inclusive, of this act.

Sec. 6. ***As used in sections 6 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 10, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 7. **1. *Except as otherwise provided in subsection 2, “business” means:***

(a) Any person, except a natural person, that performs a service or engages in a trade for profit;

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity; or

(c) Any entity organized pursuant to this title, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapter 82 or 84 of NRS.

Sec. 7.5. "Place of business" means a facility maintained by a business at a fixed location where the owner or an agent of the business conducts any of the principal business activities of the business.

Sec. 8. (Deleted by amendment.)

Sec. 9. "State business license" means the business license required pursuant to this chapter.

Sec. 10. "Wages" means any remuneration paid for personal services, including commissions, and bonuses and remuneration payable in any medium other than cash.

Sec. 11. 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of his place or places of business;

(c) Be accompanied by a fee ~~of \$100,~~ in the amount of \$200 plus an additional \$200 for each additional location in this State of his places of business; and

(d) Include any other information that the Secretary of State deems necessary.

↳ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to this title, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State;

(c) Has a registered agent in this State; or

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 12. *If a person fails to obtain a state business license and pay the fee required pursuant to section 11 of this act before conducting a business in this State and the person is:*

1. *An entity required to file an annual list with the Secretary of State pursuant to this title, the person:*

(a) *Shall pay a penalty of \$100 in addition to the annual state business license fee;*

(b) *Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and*

(c) *Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in paragraph (a).*

2. *Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of \$100 in addition to the annual state business license fee.*

Sec. 13. 1. *A natural person is not required to obtain more than one state business license for any combination of activities conducted by that person which are reported to the Internal Revenue Service for any federal tax year on two or more of the forms described in paragraph (b) of subsection 1 of section 7 of this act.*

2. *As used in this section, "federal tax year" means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.*

Sec. 14. 1. *A person who applies for renewal of a state business license shall submit a fee ~~of \$100~~ in the amount of \$200 plus an additional \$200 for each additional location in this State of his places of business to the Secretary of State:*

(a) *If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or*

(b) *If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the state business license occurs in each year, unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting a business in this State after that date.*

2. *The Secretary of State shall, 90 days before the last day for filing an application for renewal of the state business license of a person who holds a state business license, provide to the person a notice of the state business license fee due pursuant to this section and a reminder to file the application for renewal required pursuant to this section. Failure of any*

person to receive a notice does not excuse the person from the penalty imposed by law.

3. If a person fails to submit the annual state business license fee required pursuant to this section in a timely manner and the person is:

(a) An entity required to file an annual list with the Secretary of State pursuant to this title, the person:

(1) Shall pay a penalty of \$100 in addition to the annual state business license fee;

(2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in subparagraph (1).

(b) Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of \$100 in addition to the annual state business license fee. The Secretary of State shall provide to the person a written notice that:

(1) Must include a statement indicating the amount of the fees and penalties required pursuant to this section and the costs remaining unpaid.

(2) May be provided electronically, if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.

Sec. 15. (Deleted by amendment.)

Sec. 15.5. *The Secretary of State may adopt such regulations as are necessary to carry out the provisions of this chapter.*

Sec. 16. ~~16.1~~ *The Secretary of State shall deposit all money received pursuant to this chapter with the State Treasurer for credit to ~~the Account for Operation of the State Business Portal.~~*

~~2. The money in the Account may be used, to the extent of legislative authorization, only for the costs of:~~

~~(a) Establishing, operating and maintaining the state business portal established pursuant to sections 2, 3 and 4 of this act, including, without limitation, the payment of any fixed sum or any percentage of revenue that is required to be paid under the terms of any contract or agreement entered into by the Secretary of State and a private or public entity pursuant to section 3 of this act; and~~

~~(b) Administering the provisions of this chapter.~~

~~3. Any money remaining in the Account at the end of a fiscal year in excess of the amount authorized for expenditure during that fiscal year must be transferred to the State General Fund.~~

Sec. 17. 1. *Except as otherwise provided in this chapter and NRS 239.0115, the records and files of the Secretary of State concerning the administration of this chapter are confidential and privileged. The*

Secretary of State, and any employee of the Secretary of State engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Secretary of State nor any employee of the Secretary of State may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Secretary of State concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Secretary of State and production of records, files and information on behalf of the Secretary of State or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to any person authorized to audit the accounts of the Secretary of State in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Secretary of State may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Secretary of State shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Secretary of State.

Sec. 18. 1. If a person who holds a state business license fails to comply with a provision of this chapter or a regulation of the Secretary of State adopted pursuant thereto, the Secretary of State may revoke or suspend the state business license of the person.

2. If the license is suspended or revoked, the Secretary of State shall provide written notice of the action to the person who holds the state business license.

3. The Secretary of State shall not issue a new license to the former holder of a revoked state business license unless the Secretary of State is satisfied that the person will comply with the provisions of this chapter and the regulations of the Secretary of State adopted pursuant thereto.

Sec. 19. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

- (a) The name of the corporation;
- (b) The file number of the corporation, if known;
- (c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;
- (d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

- (a) A declaration under penalty of perjury that the corporation:
 - (1) Has complied with the provisions of ~~[NRS 360.780.]~~ **sections 6 to 18, inclusive, of this act;** and
 - (2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

- (b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

- (a) Subsection 1, the corporation shall pay to the Secretary of State a fee of \$125.
- (b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less \$125
 Over \$75,000 and not over \$200,000..... 175
 Over \$200,000 and not over \$500,000..... 275
 Over \$500,000 and not over \$1,000,000..... 375
 Over \$1,000,000:
 For the first \$1,000,000..... 375
 For each additional \$500,000 or fraction thereof..... 275

↳ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of \$75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, cause to be mailed to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 20. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;
- (b) The information required pursuant to NRS 77.310; and
- (c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of ~~NRS 360.780~~ **sections 6 to 18, inclusive, of this act** and which acknowledges that pursuant to NRS 239.330, it is a

category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less	\$125
Over \$75,000 and not over \$200,000.....	175
Over \$200,000 and not over \$500,000.....	275
Over \$500,000 and not over \$1,000,000.....	375
Over \$1,000,000:	
For the first \$1,000,000.....	375
For each additional \$500,000 or fraction thereof.....	275

↪ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 21. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this

State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign nonprofit corporation;
- (b) The file number of the foreign nonprofit corporation, if known;
- (c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;
- (d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

- (a) Has complied with the provisions of ~~[NRS 360.780;]~~ **sections 6 to 18, inclusive, of this act;** and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of \$25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, cause to be mailed to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign nonprofit corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 22. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the limited-liability company;
- (b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of ~~[NRS 360.780;]~~ **sections 6 to 18, inclusive, of this act;** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of \$125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of \$75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, cause to be mailed to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file a list required by subsection 2. Failure of any company to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 23. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of

its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

- (a) The name of the foreign limited-liability company;
- (b) The file number of the foreign limited-liability company, if known;
- (c) The names and titles of all its managers or, if there is no manager, all its managing members;
- (d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

- (a) Has complied with the provisions of ~~NRS 360.780~~ **sections 6 to 18, inclusive, of this act**; and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

- (a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, cause to be mailed to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited-liability company to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due

date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the registered limited-liability partnership;
- (b) The file number of the registered limited-liability partnership, if known;
- (c) The names of all of its managing partners;
- (d) The address, either residence or business, of each managing partner;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

↪ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of ~~NRS 360.780, an acknowledgment~~ **sections 6 to 18, inclusive, of this act and acknowledges** that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice or form does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign registered limited-liability partnership;
- (b) The file number of the foreign registered limited-liability partnership, if known;
- (c) The names of all its managing partners;
- (d) The address, either residence or business, of each managing partner;
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

- (a) Has complied with the provisions of ~~[NRS 360.780;]~~ **sections 6 to 18, inclusive, of this act;** and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

- (a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign registered limited-liability partnership to receive the forms does

not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 26. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the limited partnership;
- (b) The file number of the limited partnership, if known;
- (c) The names of all of its general partners;
- (d) The address, either residence or business, of each general partner;
- (e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

↪ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of ~~NRS 360.780~~ **sections 6 to 18, inclusive, of this act** and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 27. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;
(b) The file number of the foreign limited partnership, if known;
(c) The names of all its general partners;
(d) The address, either residence or business, of each general partner;
(e) The information required pursuant to NRS 77.310; and
(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~NRS 360.780;~~ **sections 6 to 18, inclusive, of this act;** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 28. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;
(b) The file number of the limited partnership, if known;
(c) The names of all of its general partners;
(d) The address, either residence or business, of each general partner;
(e) The information required pursuant to NRS 77.310; and
(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

↪ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of ~~NRS 360.780~~ **sections 6 to 18, inclusive, of this act** and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 29. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~NRS 360.780;~~ **sections 6 to 18, inclusive, of this act;** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 30. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of ~~NRS 360.780;~~ **sections 6 to 18, inclusive, of this act;** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of a business trust to receive the forms does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 31. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign business trust;
- (b) The file number of the foreign business trust, if known;
- (c) The name of at least one of its trustees;
- (d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);
- (e) The information required pursuant to NRS 77.310; and
- (f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

- (a) Has complied with the provisions of ~~NRS 360.780;~~ **sections 6 to 18, inclusive, of this act;** and
- (b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

- (a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign business trust to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 32. NRS 89.250 is hereby amended to read as follows:

89.250 1. Except as otherwise provided in subsection 2, a professional association shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list showing the names and addresses, either residence or business, of all members and employees in the professional association and certifying that all members and employees are licensed to render professional service in this State.

2. A professional association organized and practicing pursuant to the provisions of this chapter and NRS 623.349 shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list:

(a) Showing the names and addresses, either residence or business, of all members and employees of the professional association who are licensed or otherwise authorized by law to render professional service in this State;

(b) Certifying that all members and employees who render professional service are licensed or otherwise authorized by law to render professional service in this State; and

(c) Certifying that all members who are not licensed to render professional service in this State do not render professional service on behalf of the professional association except as authorized by law.

3. Each list filed pursuant to this section must be:

(a) Made on a form furnished by the Secretary of State and must not contain any fiscal or other information except that expressly called for by this section.

(b) Signed by the chief executive officer of the professional association.

(c) Accompanied by a declaration under penalty of perjury that the professional association:

(1) Has complied with the provisions of ~~[NRS 360.780;]~~ **sections 6 to 18, inclusive, of this act;** and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by this section, the professional association shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the professional association shall pay to the Secretary of State a fee of \$125.

Sec. 33. NRS 244.335 is hereby amended to read as follows:

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

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

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

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

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

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of

~~[NRS 360.780.]~~ *sections 6 to 18, inclusive, of this act.* The county license board shall provide upon request an application for a business license pursuant to ~~[NRS 360.780.]~~ *sections 6 to 18, inclusive, of this act.* As used in this subsection, “professional” means a person who:

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

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

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

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

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

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

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

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

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

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

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

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

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

member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation *or Secretary of State* for the exchange of information concerning taxpayers.

Sec. 34. NRS 268.095 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

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

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

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

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

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

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

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

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of ~~[NRS 360.780.]~~ **sections 6 to 18, inclusive, of this act.** The city licensing agency shall provide upon request an application for a business license pursuant to ~~[NRS 360.780.]~~ **sections 6 to 18, inclusive, of this act.** As used in this subsection, “professional” means a person who:

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

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

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

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

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

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

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

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

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

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

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

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after

the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

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

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

Sec. 35. NRS 360.760 is hereby amended to read as follows:

360.760 As used in NRS 360.760 to ~~[360.798,]~~ **360.796**, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[360.765 to 360.775, inclusive,]~~ **360.767, 360.773 and 360.774** have the meanings ascribed to them in those sections.

Sec. 36. NRS 360.773 is hereby amended to read as follows:

360.773 "State business license" means the business license required pursuant to ~~[NRS 360.780.]~~ **sections 6 to 18, inclusive, of this act.**

Sec. 37. NRS 360.780 is hereby amended to read as follows:

360.780 ~~[1.—Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.~~

~~2.—An application for a state business license must:~~

- ~~(a) Be made upon a form prescribed by the Department;~~
- ~~(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;~~
- ~~(c) Be accompanied by a fee of \$100; and~~
- ~~(d) Include any other information that the Department deems necessary.~~

~~3. The application must be signed by:~~

~~(a) The owner, if the business is owned by a natural person;~~

~~(b) A member or partner, if the business is owned by an association or partnership; or~~

~~(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.~~

~~4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.~~

~~5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.~~

~~6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:~~

~~(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;~~

~~(b) Has an office or other base of operations in this State; or~~

~~(c) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.~~

~~7.] A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.~~

Sec. 38. NRS 360.790 is hereby amended to read as follows:

360.790 The Department shall deposit all money it receives pursuant to NRS 360.760 to ~~[360.798,]~~ **360.796**, inclusive, in the State Treasury for credit to the State General Fund.

Sec. 39. NRS 360.795 is hereby amended to read as follows:

360.795 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration of NRS 360.760 to ~~[360.798,]~~ **360.796**, inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to ~~[360.798,]~~ **360.796**, inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to ~~[360.798,]~~ **360.796**, inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter

if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to ~~[360.798,]~~ **360.796**, inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Executive Director shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Department.

Sec. 40. NRS 372.220 is hereby amended to read as follows:

372.220 1. Every retailer who sells tangible personal property for storage, use or other consumption in this State shall register with the Department and give:

(a) The name and address of all agents operating in this State.

(b) The location of all distribution or sales houses or offices or other places of business in this State.

(c) Such other information as the Department may require.

2. Every business that purchases tangible personal property for storage, use or other consumption in this State shall, at the time the business obtains a business license pursuant to ~~[NRS 360.780,]~~ **sections 6 to 18, inclusive, of this act**, register with the Department on a form prescribed by the Department. As used in this section, "business" has the meaning ascribed to it in ~~[NRS 360.765,]~~ **section 7 of this act**.

Sec. 41. NRS 459.3824 is hereby amended to read as follows:

459.3824 1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each

facility is the sum of a base fee set by the State Environmental Commission and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to NRS 459.3829; and

(b) If any regulations adopted pursuant to NRS 459.380 to 459.3874, inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the ~~Department of Taxation~~ *Secretary of State* upon compliance by the owner with ~~NRS 360.780~~ *the provisions of sections 6 to 18, inclusive, of this act.*

6. All fees, fines, penalties and other money collected pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto, other than a fine collected pursuant to subsection 3 of NRS 459.3834, must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

Sec. 42. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of ~~[NRS 360.780.]~~ **sections 6 to 18, inclusive, of this act.**

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

Sec. 43. Chapter 719 of NRS is hereby amended by adding thereto a new section to read as follows:

The Secretary of State may require a governmental agency of this State or a governmental agency of a political subdivision of this State, as a condition of participation in the state business portal established pursuant to sections 2, 3 and 4 of this act, to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

Sec. 44. NRS 719.350 is hereby amended to read as follows:

719.350 1. Except as otherwise provided in subsection 6 of NRS 719.290 ~~and~~ **and section 43 of this act**, each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

2. ~~For~~ *Except as otherwise provided in section 43 of this act, to the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:*

(a) The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) Processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and auditability of electronic records; and

(d) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

3. *Except as otherwise provided in subsection 6 of NRS 719.290 ~~and~~ and section 43 of this act, the provisions of this chapter do not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.*

Sec. 45. NRS 360.765, 360.775, 360.782, 360.784 and 360.798 are hereby repealed.

Sec. 45.5. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$6,520,349 for allocation to the Secretary of State to design and implement the state business portal established pursuant to sections 2, 3 and 4 of this act. Money appropriated pursuant to this section may only be allocated by the Interim Finance Committee upon submittal of a detailed plan and budget developed by the Secretary of State.

2. Any remaining balance of the appropriation made by subsection 1 to the Interim Finance Committee must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 46. 1. Except as otherwise provided in subsection 2, a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before ~~January 1, 2010,~~ **October 1, 2009,** and which is not expired or revoked is not required to obtain a state business license

pursuant to sections 6 to 18, inclusive, of this act until the expiration of his state business license issued pursuant to NRS 360.760 to 360.798, inclusive.

2. If a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before ~~January 1, 2010,~~ **October 1, 2009,** and which is not expired or revoked is an entity that is required to file an annual list with the Secretary of State pursuant to title 7 of NRS, the person is not required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act until the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, unless the entity is required to file the annual list pursuant to title 7 of NRS before the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, in which case the person is required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act at the time of filing the annual list. The amount of the fee for obtaining the state business license pursuant to sections 6 to 18, inclusive, of this act must be prorated to reflect credit for the period remaining before expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive.

Sec. 46.5. Notwithstanding the provisions of this act, no penalty, late fee or interest charge may be imposed against any person for any failure to comply with the provisions of this act which occurs before January 1, 2010.

Sec. 47. 1. This section and section 45.5 of this act ~~becomes~~ become effective upon passage and approval.

2. Sections 1 to 45, inclusive, 46 and 46.5 of this act become effective:

~~1.~~ **(a)** Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and

~~2.~~ **(b)** On ~~January 1, 2010,~~ **October 1, 2009,** for all other purposes.

LEADLINES OF REPEALED SECTIONS

360.765 "Business" defined.

360.775 "Wages" defined.

360.782 Limitation on number of licenses natural person is required to obtain.

360.784 Annual fee for license: Amount; submission; penalty for late payment.

360.798 Enforcement of provisions: Revocation or suspension of license; denial of new license.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 65.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 673.

AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, ~~and~~ technology ~~it~~, **and in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs.**

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for ~~court security~~ **bailiffs or deputy marshals assigned to work in a courtroom.** **Section 5** of this bill requires a county ~~clerk~~ **recorder** to collect a fee of \$50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. **However, section 5 also provides that 1.5 percent of the fees collected may be placed in a special account for use by the office of the county recorder.** (NRS 107.080)

Section 6 of this bill provides that notwithstanding the uses provided for the fees in section 2 of this bill, the fees collected pursuant to section 2 must also be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011.

Section 7 of this bill requires the county treasurer of a county in which a district judge is added by Assembly Bill No. 64 of this session to remit, from the special account administered and maintained pursuant to section 2 of this bill, an amount equal to \$104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Section 8 of this bill provides that sections 6 and 7 of this bill become effective if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

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

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. **1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:**

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer \$99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them \$99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is \$200,000 or more \$352

(2) Where the stated value of the estate is more than \$20,000 but less than \$200,000 \$99

(3) Where the stated value of the estate is \$20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto \$200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto..... \$1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as “complex” pursuant to the local rules of practice,

↳ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding \$349

(g) On the filing of a third-party complaint, to be paid by the filing party \$135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party \$349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court \$10

2. Except as otherwise provided in subsection 4, fees collected pursuant to this section must be deposited into a special account administered by the

county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff; ~~and~~

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in ~~paragraph~~ paragraphs (a) ~~and~~ (b), to:

~~(1) Reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;~~

~~(2)~~ Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

~~(3)~~ (2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

~~(4)~~ (3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

~~(5)~~ (4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

~~(6)~~ (5) Acquire advanced technology;

~~(7)~~ (6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court; ~~or~~

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; or

(8) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer:

(a) An amount equal to \$20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.

(b) All remaining fees collected pursuant to this section during the preceding month.

Sec. 3. 1. *In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.*

2. *On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by him during the preceding month for credit to an account for programs for court security in the county general fund. The money in that account ~~is~~ must be administered by the county and:*

(a) *May be used only for programs for court security or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;*

(b) *Must not be used to supplant existing budgets for ~~court security~~ bailiffs or deputy marshals who are assigned to work in a courtroom; and*

(c) *If any balance remains, may be carried forward to the next fiscal year.*

3. *As used in this section, "programs for court security" includes, without limitation:*

(a) *Funding for additional positions for bailiffs, marshals, security guards or similar personnel;*

(b) *Supplementing existing funding used to pay bailiffs, marshals, security guards and similar personnel;*

(c) *Acquiring necessary capital goods for court security;*

(d) *Providing security training and education to personnel;*

(e) *Conducting security audits; and*

(f) *Acquiring or using appropriate technology relating to court security.*

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, 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) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, 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, or his successor in interest, 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) 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 his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) 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, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must 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.

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 period 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 and any other person entitled to notice pursuant to this section 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 three public places of the township or city where the property is situated and where the property is to be sold; and

(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.

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 his successors in interest without equity or right of redemption. A sale made

pursuant to this section may 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;

(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. 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.

8. *The county ~~clerk~~ recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect the sum of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The fees collected must be paid over to the county treasurer by the county ~~clerk~~ 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 Account. 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 ~~clerk~~ recorder for the Account for Foreclosure Mediation to the State Controller for credit to the Account. 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.*

Sec. 6. Notwithstanding any provision of section 2 of this act to the contrary, the fees collected pursuant to section 2 of this act and deposited in the special account administered by the county and maintained for the benefit of the court must be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011, and this money is hereby authorized for expenditure.

Sec. 7. In a county in which a district judge is added by Assembly Bill No. 64 of this session, the county treasurer is hereby required to, on

or before the first Monday in January 2011, remit, from the special account administered and maintained pursuant to section 2 of this act, an amount equal to \$104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

~~[Sec. 6.]~~ Sec. 8. 1. This ~~act becomes~~ section and sections 1 to 5, inclusive, of this act become effective on July 1, 2009.

2. Sections 6 and 7 of this act become effective on July 1, 2009, if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

Assemblyman Arberry moved the adoption of the amendment.

Conflict of interest declared by Assemblywoman Buckley.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 92.

Bill read third time.

Roll call on Assembly Bill No. 92:

YEAS—40.

NAYS—Cobb.

NOT VOTING—Leslie.

Assembly Bill No. 92 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that for the balance of the session all rules be suspended and that all Assembly bills and resolutions passed or adopted be immediately transmitted to the Senate.

Motion carried.

Assemblyman Ocegüera moved that the Assembly recess until 3 p.m.

Motion carried.

Assembly in recess at 12:53 p.m.

ASSEMBLY IN SESSION

At 4:10 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 8, 73, 114, 121, 165, 172, 266, 268, 361, 362, 363, 365, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 26, 228, 265, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 162, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 293, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 543, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 523, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 543.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 832.

SUMMARY—Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund ~~and~~ **authorizes the imposition of a supplemental governmental services tax in certain counties.** (BDR ~~§~~ **31-1187**)

AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; **authorizing the imposition of a supplemental governmental services tax in certain counties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~This~~ **Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per \$100 of the assessed valuation of the county. (NRS 354.59815) Section 1 of this bill requires the deposit into the State General Fund of a portion of the proceeds of any such tax imposed during the next 2 fiscal years in a county whose population is 100,000 or more (currently Clark and Washoe Counties).**

Existing law authorizes a board of county commissioners, after receiving the approval of the voters, to impose a supplemental governmental services tax of 1 cent on each \$1 valuation of a vehicle. (NRS 371.045) Section 4 of this bill authorizes the board of a county

whose population is 100,000 or more but less than 400,000 (currently Washoe County) to impose such a tax without voter approval.

Section 8 of this bill requires the deposit into the State General Fund of the portion of the property taxes levied for the next 2 fiscal years for operating purposes by Clark and Washoe Counties at the rate of 4 cents per \$100 of assessed valuation.

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

Section 1. NRS 354.59815 is hereby amended to read as follows:

354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per \$100 of the assessed valuation of the county.

2. If a tax is levied pursuant to subsection 1 in:

(a) A county whose population is less than 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year.

(b) A county whose population is 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly, from the proceeds of the tax for:

(1) The fiscal year beginning on July 1, 2008:

(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(2) The fiscal year beginning on July 1, 2009:

(I) Seventy-six percent of those proceeds ~~among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year;~~ **to the State Treasurer for deposit in the State General Fund;** and

(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(3) The fiscal year beginning on July 1, 2010:

(I) Sixty-four percent of those proceeds ~~among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year;~~ to the State Treasurer for deposit in the State General Fund; and

(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(4) The fiscal year beginning on July 1, 2011:

(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(5) Each fiscal year beginning on or after July 1, 2012:

(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of the State Board of Finance and each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular year the levy may be reduced by the amount that local government would have received.

Sec. 2. NRS 244.33516 is hereby amended to read as follows:

244.33516 A board of county commissioners which, after ~~March 25, 1991,~~ July 1, 2009, imposes a tax pursuant to NRS 244.3351, 278.710, 365.203, 371.045, 373.030 or 377A.020 ~~or~~ or section 4 of this act, shall, by January 1, ~~2001,~~ 2011, and every 10 years thereafter:

1. Prepare a comprehensive report which includes:
 - (a) A statement of the proposed uses during the following 10 years of the revenues to be collected from each tax imposed; and
 - (b) A projection of the principal amount of any general or special obligation bonds or other securities proposed to be issued during the following 10 years to fund projects described in paragraph (a) of subsection 2 of NRS 244.33512;
2. Hold a public hearing to consider and solicit comments on the report; and
3. Provide a copy of the report to the next regular session of the Legislature.

Sec. 3. NRS 244A.256 is hereby amended to read as follows:

244A.256 1. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (a) of subsection 1 of NRS 244.3351 or paragraph (a) of subsection 1 of NRS 278.710 or pursuant to NRS 371.045 or section 4 of this act or, with the consent of the regional transportation commission, received from the proceeds of the tax imposed pursuant to NRS 377A.020, or any combination of money from those sources with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in paragraph (a) of subsection 2 of NRS 244.33512, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

2. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (b) of subsection 1 of NRS 244.3351 or paragraph (b) of subsection 1 of NRS 278.710, or any combination of money from those taxes with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in subsection 1 of NRS 244.33514, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

3. Any money pledged by the county pursuant to subsection 1 or 2 may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 4. Chapter 371 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance, but not as in a case of emergency, impose a supplemental governmental services tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of

operating upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

3. Except as otherwise provided in subsection 4 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

4. The county may expend the proceeds of the supplemental governmental services tax authorized by this section, or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to the projects to be financed with the proceeds of the tax.

5. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 5. NRS 371.045 is hereby amended to read as follows:

371.045 1. A board of county commissioners of a county whose population is less than 100,000 or is 400,000 or more may by ordinance, but not as in a case of emergency, after receiving the approval of a majority of the registered voters voting on the question at a primary, general or special election, impose a supplemental governmental services tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of operating

upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. A county may combine this question with questions submitted pursuant to NRS 244.3351, 278.710 or 377A.020, or any combination thereof.

3. A special election may be held only if the board of county commissioners determines, by a unanimous vote, that an emergency exists. The determination made by the board is conclusive unless it is shown that the board acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the board must be commenced within 15 days after the board's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the board of county commissioners to prevent or mitigate a substantial financial loss to the county or to enable the board to provide an essential service to the residents of the county.

4. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

5. Except as otherwise provided in subsection 6 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

6. The county may expend the proceeds of the supplemental governmental services tax authorized by this section, ~~and NRS 371.047,~~ or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to the projects to be financed with the proceeds of the tax.

7. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 6. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045 ~~or~~ **or section 4 of this act,** or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

(a) Abutter's rights of light, view or air.

(b) Easements of access to and from abutting land.

(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045 ~~or~~ **or section 4 of this act, as applicable.**

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.

5. As used in this section:

(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.

(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.

(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 7. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047 ~~and~~ **and section 4 of this act.**

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

- (a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.
- (b) "Local government" has the meaning ascribed to it in NRS 360.640.
- (c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City	1.07 percent	Lincoln.....	3.12 percent
Churchill	5.21 percent	Lyon.....	2.90 percent
Clark	22.54 percent	Mineral	2.40 percent
Douglas	2.52 percent	Nye	4.09 percent
Elko.....	13.31 percent	Pershing	7.00 percent
Esmeralda	2.52 percent	Storey19 percent
Eureka.....	3.10 percent	Washoe.....	12.24 percent
Humboldt.....	8.25 percent	White Pine	5.66 percent
Lander.....	3.88 percent		

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 8. 1. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Clark County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per \$100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Clark County from taxes ad valorem.

2. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Washoe County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per \$100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Washoe County from taxes ad valorem.

Sec. 9. The amendatory provisions of section 1 of this act must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any county, city or town, including, without limitation, bonds, medium-term financing, letters of credit and any other financial

obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

~~Sec. 2.]~~ **Sec. 10.** This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 8.

Bill read second time and ordered to third reading.

Senate Bill No. 26.

Bill read second time.

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

Amendment No. 776.

AN ACT relating to chiropractic physicians; including certain activities within the scope of unprofessional conduct; allowing the Chiropractic Physicians' Board of Nevada to impose a fine for each act which constitutes a ground for disciplinary action under chapter 634 of NRS; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill includes within the definition of "unprofessional conduct" the violation of any lawful order of or agreement with the Chiropractic Physicians' Board of Nevada and of any statute or regulation governing chiropractic physicians. (NRS 634.018)

Section 2 of this bill authorizes the imposition of a fine of up to ~~[\$10,000]~~ **\$5,000** for each act that constitutes a ground for disciplinary action under chapter 634 of NRS. (NRS 634.190)

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

Section 1. NRS 634.018 is hereby amended to read as follows:

634.018 "Unprofessional conduct" means:

1. Obtaining a certificate upon fraudulent credentials or gross misrepresentation.

2. Procuring, or aiding or abetting in procuring, criminal abortion.

3. Assuring that a manifestly incurable disease can be permanently cured.

4. Advertising chiropractic business in which grossly improbable statements are made, advertising in any manner that will tend to deceive, defraud or mislead the public or preparing, causing to be prepared, using or participating in the use of any form of public communication that contains professionally self-laudatory statements calculated to attract lay patients. As used in this subsection, "public communication" includes, but is not limited

to, communications by means of television, radio, newspapers, books and periodicals, motion picture, handbills or other printed matter.

5. Willful disobedience of the law, or of the regulations of the State Board of Health or of the Chiropractic Physicians' Board of Nevada.

6. Conviction of any offense involving moral turpitude, or the conviction of a felony. The record of the conviction is conclusive evidence of unprofessional conduct.

7. Administering, dispensing or prescribing any controlled substance.

8. Conviction or violation of any federal or state law regulating the possession, distribution or use of any controlled substance. The record of conviction is conclusive evidence of unprofessional conduct.

9. Habitual intemperance or excessive use of alcohol or alcoholic beverages or any controlled substance.

10. Conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public.

11. Violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the regulations adopted by the Board, or any other statute or regulation pertaining to the practice of chiropractic.

12. Employing, directly or indirectly, any suspended or unlicensed practitioner in the practice of any system or mode of treating the sick or afflicted, or the aiding or abetting of any unlicensed person to practice chiropractic under this chapter.

13. Repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner.

14. Solicitation by the licensee or his designated agent of any person who, at the time of the solicitation, is vulnerable to undue influence, including, without limitation, any person known by the licensee to have recently been involved in a motor vehicle accident, involved in a work-related accident, or injured by, or as the result of the actions of, another person. As used in this subsection:

(a) "Designated agent" means a person who renders service to a licensee on a contract basis and is not an employee of the licensee.

(b) "Solicitation" means the attempt to acquire a new patient through information obtained from a law enforcement agency, medical facility or the report of any other party, which information indicates that the potential new patient may be vulnerable to undue influence, as described in this subsection.

15. Employing, directly or indirectly, any person as a chiropractor's assistant unless the person has been issued a certificate by the Board pursuant to NRS 634.123, or has applied for such a certificate and is awaiting the determination of the Board concerning the application.

16. Aiding, abetting, commanding, counseling, encouraging, inducing or soliciting an insurer or other third-party payor to reduce or deny payment or reimbursement for the care or treatment of a patient, unless such action is supported by:

- (a) The medical records of the patient; or
- (b) An examination of the patient by the chiropractic physician taking such action.

17. Violating a lawful order of the Board, a lawful agreement with the Board, or any of the provisions of this chapter or any regulation adopted pursuant thereto.

Sec. 2. NRS 634.190 is hereby amended to read as follows:

634.190 1. The person charged is entitled to a hearing before the Board, but the failure of the person charged to attend his hearing or his failure to defend himself does not delay or void the proceedings. The Board may, for good cause shown, continue any hearing from time to time.

2. If the Board finds the person guilty as charged in the complaint, it may by order:

- (a) Place the person on probation for a specified period or until further order of the Board.
- (b) Administer to the person a public reprimand.
- (c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of chiropractic.
- (d) Suspend the license of the person to practice chiropractic for a specified period or until further order of the Board.
- (e) Revoke the license of the person to practice chiropractic.
- (f) Impose a fine of not more than ~~[\$10,000]~~ **\$5,000 for each act which constitutes a ground for disciplinary action**, which must be deposited with the State Treasurer for credit to the State General Fund.

↪ The order of the Board may contain such other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

3. If the Board finds that a licensee has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

4. The Board shall not administer a private reprimand.

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

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 73.

Bill read second time and ordered to third reading.

Senate Bill No. 114.

Bill read second time and ordered to third reading.

Senate Bill No. 121.

Bill read second time and ordered to third reading.

Senate Bill No. 162.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 825.

AN ACT relating to elections; revising the date of the primary election to the second Tuesday in June of each even-numbered year; revising the provisions governing the registration of voters by mail; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill changes the date of the primary election from the twelfth Tuesday before the general election of each even-numbered year to the second Tuesday in June of each even-numbered year. (NRS 293.175) To provide an example, if the provisions of this bill had been in effect in 2008, the primary election would have been held on June 10, 2008, instead of August 12, 2008.

As a result of changing the date of the primary election, **sections 1-5, 7-12 and 14-17** of this bill amend various other dates relating to elections such as the date for filing declarations of candidacy.

~~{ Section 13 of this bill provides that no primary election will be held for a particular office if: (1) only one major political party has candidates for that office; and (2) that major political party has not more than twice the number of candidates to be elected to that office. This restriction on holding a primary election for a particular office applies regardless of whether there is a minor political candidate or an independent candidate for that particular office. (NRS 293.260) }~~

Section 16 of this bill changes the date on which a voter's registration or correction of registration information is deemed to be effective to the earlier of the date on which the application is postmarked or received by the county clerk. (NRS 293.5235)

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

Section 1. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in ~~April~~ **February** before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in ~~April~~ **February** preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

- (a) Name of the political party;
- (b) Names and addresses of its officers;
- (c) Names of the members of its executive committee; and
- (d) Name of the person who is authorized by the party to act as registered agent in this State.

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 2. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in ~~June~~ **April** must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in ~~May~~ **March** and not later than the fourth Tuesday in ~~June~~ **April**. The petition may consist of more than one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and his name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in ~~June~~ **April** and on or before 5 p.m. on the first Tuesday after the primary election must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the first Tuesday after the primary election. ~~[of the year in which the general election is held.]~~ If a nominee dies after that time and date, his name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the first Tuesday after the primary election. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 3. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the second Friday in ~~August~~ **June** preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:

(a) A certificate of existence;

(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and

(c) Not earlier than the first Monday in ~~[May]~~ ~~[April]~~ March preceding the general election and not later than 5 p.m. on the second ~~first~~ Friday after the first Monday in ~~[May]~~ ~~[April]~~ March, a petition on behalf of the candidate with the Secretary of State containing not less than:

(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or

(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.

↪ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.

4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.

Sec. 4. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection 4, ~~6,~~ a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;

(b) Files *or will file* a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or

(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,

↪ must file with the Secretary of State a list of its candidates for partisan office ~~is~~

~~2. The list of candidates for partisan office required pursuant to subsection 1 must be filed with the Secretary of State:~~

~~(a) If the minor political party is described in paragraph (a) or (b) of subsection 1, not earlier than the first Monday in March preceding the election nor later than 5 p.m. on the first Friday after the first Monday in March. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in March.~~

~~(b) If the minor political party is described in paragraph (c) of subsection 1, not earlier than the first Monday in [May] [April] March preceding the election nor later than 5 p.m. on the second ~~first~~ Friday after the first Monday in [May] [April]. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in April.~~

~~3. March.~~ The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the

ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. The list may be amended not later than 5 p.m. on the second Friday after the first Monday in ~~May.~~ **March.**

2. ~~4.~~ The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.

3. ~~5.~~ Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State nor later than 5 p.m. on the second ~~first~~ Friday after the first Monday in ~~May.~~ ~~+~~

~~(a) If the list is filed pursuant to paragraph (a) of subsection 2, March.~~

~~(b) If the list is filed pursuant to paragraph (b) of subsection 2, April.~~

March.

4. ~~6.~~ A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 5. NRS 293.174 is hereby amended to read as follows:

293.174 1. If the qualification of a minor political party is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in ~~August.~~ **June.** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in ~~August.~~ **June.** A challenge pursuant to this subsection must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~May.~~ ~~April.~~ **March.** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~May.~~ ~~April.~~ **March.** A challenge pursuant to this subsection must be filed with:

(a) The First Judicial District Court; or

(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.

Sec. 6. NRS 293.175 is hereby amended to read as follows:

293.175 1. The primary election must be held on the ~~12th Tuesday before the general election~~ **second Tuesday in June of** each even-numbered year.

2. Candidates for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election.

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply to:

- (a) Special elections to fill vacancies.
- (b) The nomination of the officers of incorporated cities.
- (c) The nomination of district officers whose nomination is otherwise provided for by statute.

Sec. 7. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in ~~May~~ **March** of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in ~~May~~ **March**.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada;

that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my

telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 8. NRS 293.180 is hereby amended to read as follows:

293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:

(a) Their major political party's nomination for any partisan elective office, or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in ~~April~~ **February** of the year in which the election is to be held nor later than 5 p.m. on the first Friday in ~~May~~ **March**; or

(b) Nomination for a judicial office, not earlier than the first Monday in December of the year immediately preceding the year in which the election is

to be held nor later than 5 p.m. on the first Friday in January of the year in which the election is to be held.

2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he is a candidate in the primary election in like manner as if he had filed a declaration of candidacy.

3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

Sec. 9. NRS 293.200 is hereby amended to read as follows:

293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:

(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 25 working days before the last day to file the petition pursuant to subsection 4.

(b) Either of the following:

(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:

(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;

(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or

(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.

(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office, or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.

2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county where he is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than the first Monday in ~~[May]~~ ~~[April]~~ **March** preceding the general election and not later than 5 p.m. on the second ~~[first]~~ Friday after the first Monday in ~~[May.]~~ ~~[April.]~~ **March.**

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.

7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[May.]~~ ~~[April.]~~ **March.** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[May.]~~ ~~[April.]~~ **March.**

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in ~~[May]~~ ~~[April]~~ **March** of the year in which the election is held nor later than 5 p.m. on the second ~~[first]~~ Friday after the first Monday in ~~[May.]~~ ~~[April.]~~ **March.**

Sec. 10. NRS 293.205 is hereby amended to read as follows:

293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in ~~[May]~~ **March** of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.

Sec. 11. NRS 293.206 is hereby amended to read as follows:

293.206 1. On or before the last day in ~~[May]~~ **March** of every even-numbered year, the county clerk shall provide the Secretary of State and the

Director of the Legislative Counsel Bureau with a copy or electronic file of a map showing the boundaries of all election precincts in the county.

2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, he must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and he shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, he shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.

4. As used in this section, “electronic file” includes, without limitation, an electronic data file of a geographic information system.

Sec. 12. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in ~~May~~ **March** of any year whose last digit is 6 and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

- (a) Ordered by a court of competent jurisdiction;
- (b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U.S.C. §§ 1971 and 1973 et seq., and any amendments thereto;
- (c) Required to comply with subsection 2 of NRS 293.205;
- (d) Required by the incorporation of a new city; or
- (e) Required by the creation of or change in the boundaries of a special district.

↪ As used in this subsection, “special district” means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 13. ~~[NRS 293.260 is hereby amended to read as follows:~~

~~293.260 1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.~~

~~2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.~~

~~3. [If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.~~

~~4.] If only one major political party has candidates for a particular office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:]~~

~~(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his name must be placed on the ballot for the general election.~~

~~(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.~~

~~[5.] 4. Where no more than the number of candidates to be elected have filed for nomination for:~~

~~(a) Any partisan office or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;~~

~~(b) Any nonpartisan office, other than the office of justice of the Supreme Court or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, he must be declared elected to the office and his name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his name must be placed on the ballot for the general election; and~~

~~(c) The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.~~

~~[6.] 5. If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office. (Deleted by amendment.)~~

Sec. 14. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[June,] April~~, his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, he shall be deemed nominated and ~~{there shall be a} the~~ vacancy in the nomination ~~{that}~~ must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the first Tuesday after the primary election, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of

the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 15. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Except as otherwise provided in NRS 295.121 or 295.217, arguments for and against the question; and
- (3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in ~~May~~ **March** preceding the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and
- (3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a

bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

4. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 16. NRS 293.5235 is hereby amended to read as follows:

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

↪ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register if:

~~(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or~~

~~(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application, on the date the application is received by the county clerk.]~~ ***on the date the application is postmarked or received by the county clerk, whichever is earlier.***

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this State.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked “no” in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person’s current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 17. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than ~~June~~ *April* 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 165.

Bill read second time and ordered to third reading.

Senate Bill No. 172.

Bill read second time and ordered to third reading.

Senate Bill No. 228.

Bill read second time.

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

Amendment No. 781.

AN ACT relating to dentistry; authorizing the ownership or operation of a dental office or clinic by certain nonprofit corporations and other organizations under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) **Section 4** of this bill revises that list to provide that certain nonprofit corporations and health centers may own and operate dental offices or clinics under certain circumstances.

Section 2 of this bill provides that certain nonprofit corporations and health centers owning and operating dental offices or clinics must employ a licensed dentist as dental director and maintain certain records.

Section 3 of this bill provides that the ownership or operation of a dental office or clinic under certain circumstances does not constitute a violation of law or a cause for disciplinary action under chapter 631 of NRS.

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

Section 1. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *An entity that owns or operates a dental office or clinic as described in paragraph (f) of subsection 2 of NRS 631.215 must:*

1. *Designate an actively licensed dentist as the dental director of the dental office or clinic. The dental director shall have responsibility for the clinical practice of dentistry at the dental office or clinic, including, without limitation:*

(a) *Diagnosing or treating any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof.*

(b) *Administering or prescribing such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases.*

(c) *Determining:*

(1) *Whether a particular treatment is necessary or advisable; or*

(2) *Which particular treatment is necessary or advisable.*

(d) *The overall quality of patient care that is rendered or performed in the clinical practice of dentistry.*

(e) *Supervising dental hygienists, dental assistants and other personnel involved in direct patient care and authorizing procedures performed by the dental hygienists, dental assistants and other personnel in accordance with the standards of supervision established by law or regulations adopted pursuant thereto.*

(f) *Providing any other specific services that are within the scope of clinical dental practice.*

(g) *Retaining patient dental records as required by law and regulations adopted by the Board.*

(h) *Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.*

2. *Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care. The records must be available to the Board upon written request.*

Sec. 3. 1. *It is not a violation of NRS 631.395 or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for an entity to own or operate a dental office or clinic as described in and operating in compliance with the provisions of paragraph (f) of subsection 2 of NRS 631.215 and section 2 of this act.*

2. *It is not a violation of NRS ~~631.346~~ 631.3465 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with an entity described in and operating in compliance with the provisions of paragraph (f) of subsection 2 of NRS 631.215 and section 2 of this act.*

Sec. 4. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of

technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prohibits the following entities from owning or operating a dental office or clinic if the entity complies with the provisions of section 2 of this act:

(1) A nonprofit corporation organized pursuant to the provisions of chapter 82 of NRS to provide dental services to rural areas and medically underserved populations of migrant or homeless persons or persons in rural communities pursuant to the provisions of 42 U.S.C. § 254b or 254c.

(2) A federally-qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B) operating in compliance with other applicable state and federal law.

(3) A nonprofit charitable corporation as described in section 501(c)(3) of the Internal Revenue Code and determined by the Board to be providing dental services by volunteer licensed dentists at no charge or at a substantially reduced charge to populations with limited access to dental care.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 265.

Bill read second time.

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

Amendment No. 782.

AN ACT relating to the Private Investigator's Licensing Board; revising provisions relating to licenses and registrations issued by the Board; revising provisions governing local regulation of such licensees and registrants; removing certain requirements for security guards and certain exemptions for counties whose population is less than 100,000; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a person who holds a license issued by the Private Investigator's Licensing Board to hire unlicensed employees if they hold a work card issued by the local sheriff. (NRS 648.060) **Sections 4-6, 8 and 9** of this bill remove the requirement of obtaining a work card from the local sheriff and instead require an unlicensed employee to be registered with the Board. (NRS 648.060, 648.085, 648.140, 648.158, 648.203) **Section 3** of this bill establishes the process and requirements for an application for registration. **Section 2** of this bill requires the Board to issue a provisional

registration while the application process is pending. **Section 10** of this bill deems any person with an active work card issued before January 1, 2010, to be registered until the work card expires or until January 1, 2015, whichever is earlier.

Section 6 of this bill also removes the authority of certain local governments to regulate certain matters relating to licensees and registrants under chapter 648 of NRS.

Section 9 of this bill also removes: (1) the requirement that a security guard obtain a work card from the applicable sheriff; and (2) the exemption from certain requirements of chapter 648 of NRS for counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties).

Sections 2 and 9 of this bill allow the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to issue a provisional registration or to receive a set of fingerprints from an applicant as a part of the registration process.

Section 3.5 of this bill exempts certified public accountants and commercial registered agents from the requirements of chapter 648 of NRS in the performance of certain duties relating to their professions.

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

Section 1. Chapter 648 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. The Board or the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services shall, upon completion and review by the Board or sheriff of a record of criminal history for the applicant pursuant to NRS 179A.070, issue a provisional registration to an applicant who:*

(a) Submits a completed application for registration in compliance with section 3 of this act; and

(b) Meets the requirements for registration as adopted by the Board by regulation.

2. A provisional registration issued to an applicant by the Board or sheriff expires automatically:

(a) If the Board denies the applicant's application;

(b) Upon the issuance of a registration to the applicant; or

(c) If the applicant's check for the fee for the application for registration is returned for insufficient funds.

3. Except as otherwise provided in this section, a provisional registration expires 90 days after its date of issuance unless an extension is granted by the Executive Director of the Board for good cause.

Sec. 3. *1. To obtain a registration, a person must:*

(a) Be a natural person;

(b) File a written application for registration with the Board;

- (c) *Comply with the applicable requirements of this chapter; and*
- (d) *Pay an application fee set by the Board of not more than \$135.*

2. *An application for registration must include:*

- (a) *A fully completed application for registration as an employee;*
- (b) *A passport size photo;*
- (c) *A completed set of fingerprint cards or a receipt for electronically submitted fingerprints of the applicant submitted as required by the Board; and*
- (d) *Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.*

3. *Except as otherwise provided in this chapter, the Board shall issue a registration to an applicant if:*

- (a) *The application is verified by the Board and complies with the applicable requirements of this chapter; and*
- (b) *The applicant:*
 - (1) *Is of good moral character and temperate habits;*
 - (2) *Has not been convicted of, or entered a plea of nolo contendere to, a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon;*
 - (3) *Has not made a false statement of material fact on his application; and*
 - (4) *Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Board.*

4. *Upon the issuance of a registration, a pocket card of such size, design and content as may be determined by the Board will be issued without charge to each registered person, and will be evidence that the person is duly registered pursuant to this chapter.*

5. *A registration issued pursuant to this section and the cards issued pursuant to subsection 4 expire 5 years after the date the registration is issued, unless it is renewed. To renew a registration, the holder of the registration must submit to the Board on or before the date the registration expires:*

- (a) *A fully completed application for renewal of registration as an employee;*
- (b) *A passport size photo;*
- (c) *A completed set of fingerprint cards or a receipt for electronically submitted fingerprints of the applicant submitted as required by the Board;*
- (d) *A renewal fee set by the Board of not more than \$135; and*
- (e) *Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.*

6. A denial of registration may be appealed to the Board. The Board shall adopt regulations providing for the consideration of such appeals.

Sec. 3.5. NRS 648.018 is hereby amended to read as follows:

648.018 Except as to polygraphic examiners and interns, this chapter does not apply:

1. To any detective or officer belonging to the law enforcement agencies of the State of Nevada or the United States, or of any county or city of the State of Nevada, while the detective or officer is engaged in the performance of his official duties.

2. To special police officers appointed by the police department of any city, county, or city and county within the State of Nevada while the officer is engaged in the performance of his official duties.

3. To insurance adjusters and their associate adjusters licensed pursuant to the Nevada Insurance Adjusters Law who are not otherwise engaged in the business of private investigators.

4. To any private investigator, private patrolman, process server, dog handler or security consultant employed by an employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

5. To a reposessor employed exclusively by one employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

6. To a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

7. To a charitable philanthropic society or association incorporated under the laws of this State which is organized and maintained for the public good and not for private profit.

8. To an attorney at law in performing his duties as such.

9. To a collection agency unless engaged in business as a reposessor, licensed by the Commissioner of Financial Institutions, or an employee thereof while acting within the scope of his employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his assets and of property which the client has an interest in or lien upon.

10. To admitted insurers and agents and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them.

11. To any bank organized pursuant to the laws of this State or to any national bank engaged in banking in this State.

12. To any person employed to administer a program of supervision for persons who are serving terms of residential confinement.

13. To any commercial registered agent, as defined in NRS 77.040, who obtains copies of, examines or extracts information from public records maintained by any foreign, federal, state or local government, or

any agency or political subdivision of any foreign, federal, state or local government.

14. To any holder of a certificate of certified public accountant issued by the Nevada State Board of Accountancy pursuant to chapter 628 of NRS while performing his duties pursuant to the certificate.

Sec. 4. NRS 648.060 is hereby amended to read as follows:

648.060 1. Except as otherwise provided in NRS 253.220, no person may:

(a) Engage in the business of private investigator, private patrolman, process server, reposessor, dog handler, security consultant, or polygraphic examiner or intern; or

(b) Advertise his business as such, irrespective of the name or title actually used,

↪ unless he is licensed pursuant to this chapter.

2. No person may be employed by a licensee unless the person ~~holds a work card issued by the sheriff of the county in which the work is to be performed.~~ **is registered pursuant to this chapter.** The provisions of this subsection do not apply to a person licensed pursuant to this chapter.

3. A person licensed pursuant to this chapter may employ only another licensee, or a nonlicensed person who:

(a) Is at least 18 years of age.

(b) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(c) Is of good moral character and temperate habits.

(d) Has not been convicted of a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

(e) Is registered pursuant to this chapter.

Sec. 5. NRS 648.085 is hereby amended to read as follows:

648.085 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a license or ~~work card~~ **registration** issued pursuant to this chapter shall include the social security number of the applicant in the application submitted to the Board.

(b) A natural person who applies for the issuance or renewal of a license or ~~work card~~ **registration** issued pursuant to this chapter shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Board.

3. A license or ~~work card~~ **registration** may not be issued or renewed by the Board pursuant to this chapter if the applicant is a natural person who:

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

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

Sec. 6. NRS 648.140 is hereby amended to read as follows:

648.140 1. Any license obtained pursuant to the provisions of this chapter gives the licensee or any bona fide employee of the licensee authority to engage in the type of business for which he is licensed in any county or city in the State of Nevada. A county or city shall not enact ordinances regulating persons licensed pursuant to this chapter, except ~~[-~~

~~(a) Ordinances regulating the employer-employee relationship of licensees and their unlicensed employees; and~~

~~(b) General] *general* business regulations designed to raise revenue or assure compliance with building codes and ordinances or regulations concerning zoning and safety from fire.~~

2. Except for polygraphic examiners and interns, a licensee may employ, in connection with his business, as many ~~[unlicensed]~~ persons **registered pursuant to this chapter** as may be necessary, but at all times every licensee is accountable for the good conduct of every person employed by him in connection with his business. Each licensee shall furnish the Board with the information requested by it concerning all ~~[unlicensed]~~ employees ~~[-]~~ **registered pursuant to this chapter**, except clerical personnel, and shall notify the Board within ~~[10]~~ 3 days after such employees begin ~~[or terminate]~~ their employment.

~~[3.—The Board may by regulation require that a licensee pay registration fees for each of his unlicensed employees, except clerical employees, and impose such terms and conditions in connection with those fees as it deems appropriate. The registration fee must not exceed \$10 for each unlicensed employee.~~

~~4.—Each licensee shall report quarterly on forms provided by the Board the name of each unlicensed employee employed by him at the time of the report and the name of each unlicensed employee who has left his employ since the date of the last quarterly report. The report required by this subsection is in addition to the reports required by subsection 2.]~~

Sec. 7. NRS 648.144 is hereby amended to read as follows:

648.144 A license issued under the provisions of this chapter and the cards issued pursuant to NRS 648.142 expire on June 30 of each year ~~[-]~~ **unless they are renewed.** A licensee desiring a renewal of his license must file an application for renewal on or before June 30 on a form prescribed by the Board which is accompanied by the fee prescribed pursuant to NRS 648.120 and all information required to complete the application for renewal. A renewal license for the next ensuing year must then be issued together with renewal cards for the persons described in subsection 3 of NRS 648.142.

Sec. 8. NRS 648.158 is hereby amended to read as follows:

648.158 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license or ~~work card~~ **registration** issued pursuant to this chapter, the Board shall deem the license or ~~work card~~ **registration** issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license or ~~work card~~ **registration** by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license or ~~work card~~ **registration** has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or ~~work card~~ **registration** issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or ~~work card~~ **registration** was suspended stating that the person whose license or ~~work card~~ **registration** was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 9. NRS 648.203 is hereby amended to read as follows:

648.203 1. Except as otherwise provided in ~~subsection 2 or~~ NRS 253.220, it is unlawful for a person to ~~[-]~~

~~(a) Allow~~ **allow** an employee ~~[-, including an independent contractor,]~~ to perform any work regulated pursuant to the provisions of this chapter unless the employee ~~holds a work card authorizing his work which is issued by the sheriff of the county in which the work is performed.]~~ **is registered pursuant to this chapter.** The provisions of this ~~paragraph~~ **subsection** do not apply to a person licensed pursuant to this chapter.

~~[(b) Work as a security guard unless he holds a work card authorizing his work as a security guard issued in accordance with applicable ordinances by the sheriff of the county in which the work is performed.]~~

2. ~~[-] The provisions of subsection 1 do not apply in any county whose population is less than 100,000, but this subsection does not prohibit a board of county commissioners from adopting similar restrictions by ordinance.~~

~~3.]~~ The ~~sheriff of any county in which such restrictions apply~~ **Board** shall require any person applying for ~~such a work card~~ **registration pursuant to this chapter** to submit a complete set of his fingerprints **or a**

receipt for electronically submitted fingerprints to the ~~[sheriff]~~ Board or to the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services, who ~~[may]~~ shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the applicant's criminal history.

Sec. 10. Any person who holds an active work card issued before January 1, 2010, will be deemed to be registered pursuant to chapter 648 of NRS. Notwithstanding the amendatory provisions of this act to the contrary, any such registration pursuant to this section expires on the date that the work card expires or January 1, 2015, whichever is earlier.

Sec. 11. 1. This section and section 3.5 of this act become effective upon passage and approval.

2. Sections 1, 2, 3 and 4 to 10, inclusive, of this act ~~[becomes]~~ become effective on January 1, 2010.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 266.

Bill read second time and ordered to third reading.

Senate Bill No. 268.

Bill read second time and ordered to third reading.

Senate Bill No. 293.

Bill read second time.

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

Amendment No. 712.

JOINT SPONSORS: ASSEMBLYWOMAN MASTROLUCA

SUMMARY — ~~[Establishes procedures for authorizing the administration of certain medication for children in the custody of certain agencies.] Makes various changes concerning the protection of children.~~ (BDR 38-701)

AN ACT relating to children; ~~[prescribing procedures for authorizing the administration of]~~ making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a decree of adoption; requiring the development of policies concerning certain psychotropic medications given to children who are in the custody of agencies which provide child welfare services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law sets forth the circumstances under which a child may be removed from the physical custody of his parent or legal guardian and requires agencies which provide child welfare services to carry out certain~~

~~duties relating to the protection of those children. (Chapter 432B of NRS) Section 1 of this bill prescribes procedures for an agency which provides child welfare services to obtain the consent of a parent or guardian of a child in the custody of an agency which provides child welfare services before authorizing the administration of a psychotropic medication to that child. Section 1 also provides that an agency which provides child welfare services may, under certain circumstances, obtain approval of a court of competent jurisdiction if the agency believes that a psychotropic medication must be administered to the child and the parent or legal guardian denies a request for consent.~~

~~Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to review the policies and procedures relating to the prescription and administration of psychotropic medication to children in the custody of agencies which provide child welfare services in this State and to report its findings to the Legislative Committee on Health Care and the mental health consortiums.]~~

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) Section 2.5 of this bill clarifies that as used in those provisions, “court-ordered admission of a child” includes a child for whom a petition is filed to continue placement after an emergency admission. Section 2.7 of this bill requires each agency which provides child welfare services to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. Section 11 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to access to such medication by children in division facilities.

Section 4 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) Section 5 of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) Section 6 of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. (NRS 432B.6077) Section 7 of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) Section 8 of this bill requires a court to apply the same standards in considering a petition to

renew a court-ordered admission of a child as were applied to the original petition. (NRS 432B.608) Section 9 of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge. (NRS 432B.6081)

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. Section 11 further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

Section 12 of this bill requires the Legislative Committee on Health Care to study issues relating to the use of psychotropic medications by children in the custody of agencies which provide child welfare services.

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

Section 1. ~~Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in this section and NRS 432B.607 to 432B.6085, inclusive, or by order of a court pursuant to chapter 433B of NRS, an agency which provides child welfare services may authorize the administration of a psychotropic medication to a child who is in the custody of the agency if the parent or legal guardian of the child who has the authority to make medical decisions for the child has given consent to the prescription and administration of the psychotropic medication. An agency which provides child welfare services shall provide to the parent or legal guardian of a child before obtaining consent for the administration of a psychotropic medication the following information:~~

~~(a) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;~~

~~(b) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;~~

~~(c) The expected results of the psychotropic medication;~~

~~(d) The anticipated consequences of not administering the psychotropic medication to the child; and~~

~~(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication.~~

~~2. If the parent or legal guardian of a child does not respond to a request for consent pursuant to subsection 1 to administer a psychotropic medication to a child who is in the custody of an agency which provides child welfare services within 5 days after the request was made, the agency may authorize the administration of a psychotropic medication to the child.~~

~~3. If the parent or legal guardian of a child who has the authority to make medical decisions for the child denies a request for consent pursuant to subsection 1, an agency which provides child welfare services may authorize the administration of a psychotropic medication to that child unless:~~

~~(a) The child is under 6 years of age; or~~

~~(b) The child is being prescribed for more than five psychotropic medications;~~

~~4. Notwithstanding the provisions of subsections 1, 2 and 3, if an agency which provides child welfare services believes that a psychotropic medication must be administered to a child, the agency may, on behalf of the child, file a petition with a court of competent jurisdiction for an order authorizing the administration of the psychotropic medication to the child. The petition must include:~~

~~(a) The name and age of the child;~~

~~(b) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;~~

~~(c) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;~~

~~(d) The expected results of the psychotropic medication;~~

~~(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication; and~~

~~(f) The anticipated consequences of not administering the psychotropic medication to the child.~~

~~5. If a petition is filed pursuant to subsection 4, the court shall, within 7 judicial days after receiving the petition:~~

~~(a) Approve the petition;~~

~~(b) Deny the petition;~~

~~(c) Upon request of the parent, legal guardian or attorney of the child, set a time and date for a hearing on the petition; or~~

~~(d) If the court determines appropriate, authorize the parent or legal guardian of the child to make a decision concerning the prescription of the psychotropic medications.~~

~~6. A foster parent, or other person responsible for the care of a child who is in the custody of an agency which provides child welfare services, other than the parent or legal guardian who has the authority to make medical decisions for the child, who obtains a prescription for a psychotropic medication for the child shall obtain authorization from the agency before administering the medication to the child if the child is:~~

~~(a) Under 6 years of age; or~~

~~(b) Being prescribed for more than five psychotropic medications.~~

~~7.—A person who administers a psychotropic medication to a child who is in the custody of an agency which provides child welfare services shall comply with the protocol concerning the use of the medication as indicated by the prescribing physician and, if applicable, the order of a court issued pursuant to subsection 5.~~

~~8.—A child who is in the custody of an agency which provides child welfare services who is admitted to a public or private mental health facility under conditions of an emergency may be prescribed and administered a psychotropic medication, and such medication is not subject to review pursuant to the provisions of this section for 21 days after the child is admitted. Within 21 days after a child is admitted to a mental health facility under conditions of an emergency, the agency which provides child welfare shall:~~

~~(a) Authorize the continued administration of the medication in accordance with the provisions of subsections 1, 2 and 3; or~~

~~(b) If appropriate, file a petition on behalf of the child pursuant to subsection 4 to continue the administration of a psychotropic medication.~~

~~9.—A child who is prescribed a psychotropic medication before the child enters the custody of an agency which provides child welfare services shall continue to take such medication and such medication is not subject to review pursuant to the provisions of this section. The provisions of this subsection do not apply to any changes in the prescription or additional prescriptions given to the child after he enters the custody of the agency which provides child welfare services.~~

~~10.—The Division, in consultation with an agency which provides child welfare services located in a county whose population is 100,000 or more, shall adopt regulations to carry out the provisions of this section.~~

~~11.—As used in this section, “psychotropic medication” means any medication which affects the central nervous system to treat psychiatric disorders or illness, including, without limitation, antipsychotic medications, mood stabilizers, antidepressants, antipanic agents, antiobsessive agents, antianxiety agents and psychostimulants.] (Deleted by amendment.)~~

~~Sec. 2. [1.—The Division of Child and Family Services of the Department of Health and Human Services, in consultation with agencies which provide child welfare services, officers and employees of the district courts in this State and mental health professionals who provide services to children shall review the policies and procedures relating to the prescription and administration of psychotropic medications to children in the custody of agencies which provide child welfare services in this State.~~

~~2.—On or before July 1, 2010, the Division of Child and Family Services shall submit a report relating to the review conducted pursuant to subsection~~

~~1, the regulations adopted pursuant to section 1 of this act and any recommendations for legislation to:~~

~~(a) The Legislative Committee on Health Care; and~~

~~(b) Each mental health consortium established pursuant to NRS 432B.333.] (Deleted by amendment.)~~

Sec. 2.3. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.

Sec. 2.5. "Court-ordered admission of a child" includes, without limitation:

1. A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and

2. A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.

Sec. 2.7. Each agency which provides child welfare services shall establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication; and

4. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 3. NRS 432B.607 is hereby amended to read as follows:

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, and section 2.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, and section 2.5 of this act have the meanings ascribed to them in those sections.

Sec. 4. NRS 432B.6075 is hereby amended to read as follows:

432B.6075 1. A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

~~[(a)]~~ (a) By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~[(b)]~~ (b) By a sworn written statement by the petitioner that:

~~[(1)]~~ (1) The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~[(2)]~~ (2) The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be filed not later than 5 days after the emergency admission or the child must be released.

Sec. 5. NRS 432B.6076 is hereby amended to read as follows:

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~[(1)]~~, **including, without limitation, an evidentiary hearing:**

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 6. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for

the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in paragraph (b) of subsection ~~4~~ 1 of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~or~~ or stating the opposition in court; and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

Sec. 7. NRS 432B.6078 is hereby amended to read as follows:

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, and section 2.5 of this act, 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist who are not employed by, connected to or otherwise affiliated with the facility other than a physician, psychiatrist or licensed psychologist

who performed an original examination which authorized the court to order the admission of the child to the facility. **A second examination must be conducted not later than 5 business days after the court authorizes the examination.**

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the appropriate placement of the child which must be provided to the facility; and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

Sec. 8. NRS 432B.608 is hereby amended to read as follows:

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child. ~~It~~ **and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.**

Sec. 9. NRS 432B.6081 is hereby amended to read as follows:

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care, treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~5~~ **10** days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(e)~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~(c)~~ (c) A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~(d)~~ (d) The suggested placement of the child after the child is discharged from the facility.

Sec. 10. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.

Sec. 11. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 2.7 of this act.

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 12. During the 2009-2011 interim, the Legislative Committee on Health Care shall study the policies adopted pursuant to section 2.7 of this act and NRS 433B.130, as amended by section 11 of this act, and the use of psychotropic medication by children in the custody of agencies which provide child welfare services, including, without limitation, children in the custody of a facility operated by the Division of Child and Family Services of the Department of Health and Human Services. The study must include, without limitation, issues concerning:

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication;

4. Whether children in the custody of agencies which provide child welfare services have timely access to clinically appropriate psychotropic medication; and

5. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 13. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 361.

Bill read second time and ordered to third reading.

Senate Bill No. 362.

Bill read second time and ordered to third reading.

Senate Bill No. 363.

Bill read second time and ordered to third reading.

Senate Bill No. 365.

Bill read second time and ordered to third reading.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 552, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 552.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 831.

SUMMARY—~~[Increases fee charged by State for collecting local sales and use taxes.]~~ Makes various changes regarding certain tax collection allowances and the payment of certain taxes to the State. (BDR 32-1188)

AN ACT relating to taxation; increasing the fee charged by the State for collecting certain local sales and use taxes; establishing the required time for payment to the State of certain proceeds from taxes on revenue from the rental of transient lodging; making permanent a temporary reduction in various allowances for the collection of sales and use taxes and taxes on intoxicating liquor, cigarettes and other tobacco products; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Controller to transfer ~~[.75]~~ 0.75 percent of ~~all~~ certain local sales and use taxes collected during the preceding month in each county and from out-of-state businesses to the appropriate account in the State General Fund as compensation to the State for the costs of collecting these taxes. (NRS 374.785) This bill increases the compensation rate for local sales and use taxes, other than the Local School Support Tax, to 1.75 percent.

Existing law provides that the collection allowance applicable to taxes on intoxicating liquor, cigarettes and other products made from tobacco, and sales and use taxes will increase from 0.25 percent to 0.5 percent on July 1, 2009. (Chapter 4, Statutes of Nevada 2008, 25th Special Session, pp. 18-20 and 23) Section 18 of this bill repeals the provision effecting this change, thereby maintaining the collection allowance at the rate of 0.25 percent.

Existing law requires the imposition of certain taxes on revenue from the rental of transient lodging in each county and incorporated city in this State, and the payment of all or part of the proceeds of those taxes to the State. (§§ 3, 4 and 6 of I.P. 1; NRS 244.3352, 244.3354, 268.096, 268.0962) Sections 4 and 17 of this bill require the payment of those proceeds to the State on or before the last day of the month immediately following the month for which those proceeds are collected.

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

Section 1. ~~NRS 374.785 is hereby amended to read as follows:~~

~~374.785 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to counties under this chapter must be paid to the Department in the form of remittances payable to the Department.~~

~~2. The Department shall deposit the payments in the State Treasury to the credit of the Sales and Use Tax Account in the State General Fund.~~

~~3. The State Controller, acting upon the collection data furnished by the Department, shall, each month, from the Sales and Use Tax Account in the State General Fund:~~

~~(a) Transfer [.75] 1.75 percent of all fees, taxes, interest and penalties collected in each county during the preceding month to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.~~

~~(b) Transfer [.75] 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month from out of state businesses not maintaining a fixed place of business within this State to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.~~

~~(c) Determine for each county the amount of money equal to the fees, taxes, interest and penalties collected in the county pursuant to this chapter during the preceding month less the amount transferred pursuant to paragraph (a).~~

~~(d) Transfer the total amount of taxes collected pursuant to this chapter during the preceding month from out of state businesses not maintaining a fixed place of business within this State, less the amount transferred pursuant to paragraph (b) and excluding any amounts required to be remitted pursuant to NRS 360.850 and 360.855, to the State Distributive School Account in the State General Fund.~~

~~(e) Except as otherwise provided in NRS 387.528 or as required to carry out NRS 360.850 and 360.855, transfer the amount owed to each county to the Intergovernmental Fund and remit the money to the credit of the county school district fund. (Deleted by amendment.)~~

Sec. 2. NRS 360.850 is hereby amended to read as follows:

360.850 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 in the manner provided pursuant to an agreement made pursuant to NRS 271.660:

(a) From the State General Fund, the amount of money pledged pursuant to the ordinance in accordance with paragraph (a) of subsection 1 of NRS 271.650 which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund, the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~paragraph (b)~~ **paragraphs (b) and (c)** of subsection 1 of NRS 271.650.

2. The governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 shall promptly remit to the State Controller any amount received pursuant to this section in excess of the amount required to carry out the provisions of NRS 271.4315 with regard to the project for which the assessment ordinance was adopted. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650 in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money pursuant to the assessment ordinance, for the fiscal year in which the State Controller receives the money.

3. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650.

*Sec. 3. **NRS 360.855 is hereby amended to read as follows:***

360.855 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070, in the manner provided pursuant to an agreement made pursuant to NRS 271A.100:

(a) From the State General Fund the amount of money pledged pursuant to the ordinance in accordance with subparagraph (1) of paragraph (c) of subsection 1 of NRS 271A.070, which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~subparagraph (2)~~ **subparagraphs (2) and (3)** of paragraph (c) of subsection 1 of NRS 271A.070.

2. Except as otherwise provided in subsection 3, the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070 shall at the end of each fiscal year remit to the State Controller any amount received pursuant to this section in excess of the amount required to make payments due during that fiscal year of the principal of, interest on, and other payments or security-related costs with respect to, any bonds or notes issued pursuant to NRS 271A.120 and payments due during that fiscal year under any agreements made pursuant to NRS 271A.120. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged by an ordinance adopted pursuant to NRS 271A.070, in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money pursuant to that ordinance, for the fiscal year in which the State Controller receives the money.

3. The provisions of subsection 2 do not require a governing body to remit to the State Controller any money received pursuant to this section and expended for the purpose of prepaying, defeasing or otherwise retiring all or a portion of any bonds or notes issued pursuant to NRS 271A.120 or of prepaying amounts due under any agreements entered into pursuant to NRS 271A.120, or any combination thereof, with respect to a tourism improvement district if that use of the money has been:

(a) Authorized by the governing body in the ordinance creating the district pursuant to NRS 271A.070, or in an amendment thereto; and

(b) Approved by the governing body, Commission on Tourism and Governor in the manner required to satisfy the requirements of subsections 6, 7 and 8 of NRS 271A.080,

↪ and after the provision of notice to and an opportunity to make comments by the board of trustees of the school district in which the tourism improvement district is located in accordance with subsection 4 of NRS 271A.080 and, if applicable, by the board of county commissioners of the county in which the tourism improvement district is located in accordance with subsection 5 of NRS 271A.080.

4. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged by an ordinance adopted pursuant to NRS 271A.070.

Sec. 4. Chapter 364 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 244.3352 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 244.3354 or paragraph (a) of subsection 2 of NRS 244.3354 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

2. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of section 3 of Initiative Petition No. 1 of this session shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to section 4 of Initiative Petition No. 1 of this session to the State Treasurer on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

3. The city council or other governing body of an incorporated city that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 268.096 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 268.0962 or paragraph (a) of subsection 2 of NRS 268.0962 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

Sec. 5. Chapter 374A of NRS is hereby amended by adding thereto a new section to read as follows:

1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this chapter during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this chapter during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county school district fund.

Sec. 6. NRS 374A.020 is hereby amended to read as follows:

374A.020 1. The collection of the tax imposed by NRS 374A.010 must be commenced on the first day of the first calendar quarter that begins at least 120 days after the last condition in subsection 1 of NRS 374A.010 is met.

2. ~~The~~ **Except as otherwise provided in section 5 of this act, the** tax must be administered, collected and distributed in the manner set forth in chapter 374 of NRS.

3. The board of trustees of the school district shall transfer the proceeds of the tax imposed by NRS 374A.010 from the county school district fund to the fund described in NRS 354.6105 which must be established by the board of trustees. The money deposited in the fund described in NRS 354.6105 pursuant to this subsection must be accounted for separately in that fund and must only be expended by the board of trustees for the cost of the extraordinary maintenance, extraordinary repair and extraordinary improvement of school facilities within the county.

Sec. 7. NRS 376A.040 is hereby amended to read as follows:

376A.040 1. In addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners of a county whose population is less than 400,000 may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.050 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.050, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election may occur, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city within the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

5. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~transfer~~ monthly:

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the **appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.**

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

~~5.5~~ 6. The money received from the tax imposed pursuant to subsection ~~44~~ 5 must be retained by the county, or remitted to a city or general improvement district in the county. The money received by a county, city or general improvement district pursuant to this section must only be used to pay the cost of:

(a) The acquisition of land in fee simple for development and use as open-space land;

(b) The acquisition of the development rights of land identified as open-space land;

(c) The creation of a trust fund for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b);

(d) The principal and interest on notes, bonds or other obligations issued by the county, city or general improvement district for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b); or

(e) Any combination of the uses set forth in paragraphs (a) to (d), inclusive.

~~6.7~~ 7. The money received from the tax imposed pursuant to this section and any applicable penalty or interest must not be used for any neighborhood or community park or facility.

~~7.7~~ 8. Any money used for the purposes described in this section must be used in a manner:

(a) That is consistent with the provisions of the open-space plan adopted pursuant to NRS 376A.020; and

(b) That provides an equitable allocation of the money among the county and the incorporated cities within the county.

Sec. 8. NRS 376A.040 is hereby amended to read as follows:

376A.040 1. In addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000, may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.050 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.050, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election may occur, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city within the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

5. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~transfer~~ monthly:

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

~~5.~~ **6.** The money received from the tax imposed pursuant to subsection ~~4~~ **5** must be retained by the county, or remitted to a city or general improvement district in the county. The money received by a county, city or general improvement district pursuant to this section must only be used to pay the cost of:

- (a) The acquisition of land in fee simple for development and use as open-space land;
- (b) The acquisition of the development rights of land identified as open-space land;
- (c) The creation of a trust fund for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b);
- (d) The principal and interest on notes, bonds or other obligations issued by the county, city or general improvement district for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b); or
- (e) Any combination of the uses set forth in paragraphs (a) to (d), inclusive.

~~6~~ 7. The money received from the tax imposed pursuant to this section and any applicable penalty or interest must not be used for any neighborhood or community park or facility.

~~7~~ 8. Any money used for the purposes described in this section must be used in a manner:

- (a) That is consistent with the provisions of the open-space plan adopted pursuant to NRS 376A.020; and
- (b) That provides an equitable allocation of the money among the county and the incorporated cities within the county.

*Sec. 9. **NRS 376A.050 is hereby amended to read as follows:***

376A.050 1. Except as otherwise provided in subsection 2, in addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners in each county whose population is less than 400,000 may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.040 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.040, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election occurs, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city in the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

5. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~transfer~~ monthly :

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the **appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.**

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

Sec. 10. **NRS 376A.050 is hereby amended to read as follows:**

376A.050 1. Except as otherwise provided in subsection 2, in addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners in each county whose population is 100,000 or more but less than 400,000, may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.040 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.040, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election occurs, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city in the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~transfer~~ monthly :

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the **appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.**

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this

section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

Sec. 11. NRS 377.050 is hereby amended to read as follows:

377.050 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to counties under this chapter must be paid to the Department in the form of remittances made payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall, before making the distributions required by NRS 360.850, 360.855, 377.055 and 377.057, monthly transfer from the Sales and Use Tax Account ~~75~~ 1.75 percent of all fees, taxes, interests and penalties collected pursuant to this chapter during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

Sec. 12. NRS 377A.050 is hereby amended to read as follows:

377A.050 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the counties under this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account ~~75~~ 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this chapter during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this chapter during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

Sec. 13. NRS 377B.130 is hereby amended to read as follows:

377B.130 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the counties pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a ~~[percentage]~~ **1.75 percent** of all fees, taxes, interest and penalties collected pursuant to this chapter during the preceding month as compensation to the State for the cost of collecting the taxes. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this chapter only.]~~

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this chapter during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money:

(1) In each county whose population is 400,000 or more and in which a water authority exists, to the treasurer for the water authority.

(2) In each county whose population is less than 400,000 or each county whose population is 400,000 or more and in which no water authority exists, to the county treasurer.

*Sec. 14. **NRS 271.650 is hereby amended to read as follows:***

271.650 1. Except as otherwise provided in this section, the governing body of a municipality in a county whose population is less than 400,000 may include in an assessment ordinance for a project the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(a) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of a sum equal to ~~[0.75]~~ **1.75** percent of the amount of those proceeds; ~~[and]~~

(b) The amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~[, 374.190 and 377.030]~~ **and 374.190** with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds ~~[,]~~ **; and**

(c) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 1.75 percent of the amount of those proceeds.

2. If any property within the boundaries of an improvement district for which any money is pledged pursuant to this section is also included within the boundaries of any other improvement district for which any money is pledged pursuant to this section or any tourism improvement district for which any money is pledged pursuant to NRS 271A.070, the total amount of money pledged pursuant to this section and NRS 271A.070 with respect to

such property by all such districts must not exceed the amount authorized pursuant to this section.

3. The governing body of a municipality shall not include a pledge authorized by subsection 1 in an assessment ordinance for a project unless:

(a) The governing body determines that no retailers have maintained a fixed place of business in the improvement district at any time from the first day of the fiscal year in which the assessment ordinance is adopted until the date of the adoption of the ordinance.

(b) The governing body determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(1) As a result of the project:

(I) Retailers will locate their businesses as such in the improvement district; and

(II) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district; and

(2) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

(c) The Commission on Tourism determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to paragraph (b) will be attributable to transactions with tourists who are not residents of this State.

(d) The Governor determines that the project and the pledge of money authorized by subsection 1 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(1) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to NRS 271.670 by the school district in which the improvement district is located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide him with an appropriate fiscal report; and

(2) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the improvement district is located during the term of the pledge of money. The payments may be provided pursuant to agreements authorized by NRS 271.670 or from sources other than the owners of property within the improvement district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the pledge of money authorized by subsection 1.

(e) If any property within the boundaries of the improvement district is also included within the boundaries of any other improvement district for which any money has been pledged pursuant to this section or any tourism improvement district for which any money has been pledged pursuant to NRS 271A.070, all the governing bodies which created those districts have entered into an interlocal agreement providing for:

(1) The apportionment of any money pledged pursuant to this section and NRS 271A.070 with respect to such property; and

(2) The priority of the application of that money between:

(I) Bonds issued pursuant to this chapter; and

(II) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

↪ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to this chapter to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

4. Any determination or approval made pursuant to subsection 3 is conclusive in the absence of fraud or gross abuse of discretion.

5. As used in this section, “retailer” has the meaning ascribed to it in NRS 374.060.

*Sec. 15. **NRS 271A.070 is hereby amended to read as follows:***

271A.070 1. Except as otherwise provided in this section and NRS 271A.080, the governing body of a municipality may:

(a) Create a tourism improvement district for the purposes of carrying out this chapter and revise the boundaries of the district by adopting an ordinance describing the boundaries of the district and generally describing the types of projects which may be financed within the district pursuant to this chapter.

(b) Without any election, acquire, improve, equip, operate and maintain a project within a district created pursuant to paragraph (a). The project may be owned by the municipality, another governmental entity, any other person, or any combination thereof.

(c) For the purposes of carrying out paragraph (b), include in an ordinance adopted pursuant to paragraph (a) the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(1) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of a sum equal to ~~10.75~~ **1.75** percent of the amount of those proceeds; ~~and~~

(2) The amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~, 374.190 and 377.030~~ **and 374.190** with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds. ~~;~~ **and**

(3) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 1.75 percent of the amount of those proceeds.

2. A district created pursuant to this section by:

(a) A city must be located entirely within the boundaries of that city.

(b) A county must be located entirely within the boundaries of that county and, when the district is created, entirely outside of the boundaries of any city.

3. If any property within the boundaries of a district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, the total amount of money pledged pursuant to this section and NRS 271.650 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

4. The governing body of a municipality shall not, after October 1, 2009, create a tourism improvement district that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS.

*Sec. 16. **NRS 354.705 is hereby amended to read as follows:***

354.705 1. As soon as practicable after the Department takes over the management of a local government, the Executive Director shall:

(a) Determine the total amount of expenditures necessary to allow the local government to perform the basic functions for which it was created;

(b) Determine the amount of revenue reasonably expected to be available to the local government; and

(c) Consider any alternative sources of revenue available to the local government.

2. If the Executive Director determines that the available revenue is not sufficient to provide for the payment of required debt service and operating expenses, he may submit his findings to the Committee who shall review the determinations made by the Executive Director. If the Committee determines that additional revenue is needed, it shall prepare a recommendation to the Nevada Tax Commission as to which one or more of the following additional taxes or charges should be imposed by the local government:

(a) The levy of a property tax up to a rate which when combined with all other overlapping rates levied in the State does not exceed \$4.50 on each \$100 of assessed valuation.

(b) An additional tax on transient lodging at a rate not to exceed 1 percent of the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging. Any such tax must be collected and administered in the same manner as all other taxes on transient lodging are collected by or for the local government.

(c) Additional service charges appropriate to the local government.

(d) If the local government is a county or has boundaries that are conterminous with the boundaries of the county:

(1) An additional tax on the gross receipts from the sale or use of tangible personal property not to exceed one-quarter of 1 percent throughout the county. The ordinance imposing any such tax must:

(I) Include provisions in substance which comply with the requirements of subsections 2 to 5, inclusive, of NRS 377A.030. **The ordinance shall be deemed to require the remittance of the tax to the Department and the distribution of the tax to the local government in the same manner as that provided in NRS 377A.050.**

(II) Specify the date on which the tax must first be imposed or on which a change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

(2) An additional governmental services tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except those vehicles exempt from the governmental services tax imposed pursuant to chapter 371 of NRS or a vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations. As used in this subparagraph, "based" has the meaning ascribed to it in NRS 482.011.

3. Upon receipt of the plan from the Committee, a panel consisting of three members of the Nevada Tax Commission appointed by the Nevada Tax Commission and three members of the Committee appointed by the Committee shall hold a public hearing at a location within the boundaries of the local government in which the severe financial emergency exists after giving public notice of the hearing at least 10 days before the date on which the hearing will be held. In addition to the public notice, the panel shall give notice to the governing body of each local government whose jurisdiction overlaps with the jurisdiction of the local government in which the severe financial emergency exists.

4. After the public hearing conducted pursuant to subsection 3, the Nevada Tax Commission may adopt the plan as submitted or adopt a revised plan. Any plan adopted pursuant to this section must include the duration for which any new or increased taxes or charges may be collected which must not exceed 5 years.

5. Upon adoption of the plan by the Nevada Tax Commission, the local government in which the severe financial emergency exists shall impose or cause to be imposed the additional taxes and charges included in the plan for the duration stated in the plan or until the severe financial emergency has been determined by the Nevada Tax Commission to have ceased to exist.

6. The allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 does not apply to any additional property tax levied pursuant to this section.

7. If a plan fails to satisfy the expenses of the local government to the extent expected, the Committee shall report such failure to:

- (a) The county for consideration of absorption of services; or
- (b) If the local government is a county, to the next regular session of the Legislature.

*Sec. 17. **Section 4 of this act is hereby amended to read as follows:***

Sec. 4. Chapter 364 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 244.3352 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 244.3354 or paragraph (a) of subsection 2 of NRS 244.3354 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

2. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of section 3 of Initiative Petition No. 1 of this session shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to subsection 1 of section ~~44~~ 6 of Initiative Petition No. 1 of this session to the State Treasurer on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

3. The city council or other governing body of an incorporated city that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 268.096 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 268.0962 or paragraph (a) of subsection 2 of NRS 268.0962 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

*Sec. 18. **Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 23, is hereby amended to read as follows:***

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009.

3. Sections 4 and ~~[6 to 12, inclusive,]~~ 12 of this act expire by limitation on June 30, 2009.

4. Sections 1, 3, 5 and 13 of this act become effective on July 1, 2009.

5. Sections 1, 2, 3 and 5 of this act expire by limitation on June 30, 2011.

*Sec. 19. **Section 8A.100 of the Charter of Carson City, being chapter 16, Statutes of Nevada 1997, at page 44, is hereby amended to read as follows:***

Sec. 8A.100 Payment of proceeds of tax to Department; distribution of proceeds.

1. All fees, taxes, interest and penalties imposed and all amounts of a tax required to be paid to Carson City pursuant to this article must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this article during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785 but the percentage must be applied to the proceeds collected pursuant to this article only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for Carson City pursuant to this article during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the Treasurer for Carson City.

*Sec. 20. **Section 14 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 916, is hereby amended to read as follows:***

Sec. 14. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ **1.75 percent** of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 21. Section 20 of the Douglas County Sales and Use Tax Act of 1999, being chapter 37, Statutes of Nevada 1999, at page 84, is hereby amended to read as follows:

Sec. 20. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ **1.75 percent** of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the state for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 22. Section 6 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 30, is hereby amended to read as follows:

Sec. 6. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to Elko County pursuant to the taxing ordinance and this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ **1.75 percent** of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for Elko County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer of Elko County.

Sec. 23. Section 29 of the Local Government Tax Act of 1991, being chapter 491, Statutes of Nevada 1991, at page 1447, as amended by chapter 426, Statute of Nevada 1993, at page 1370, chapter 400, Statutes of Nevada 2003, at page 2388 and chapter 421, Statutes of Nevada 2005, at page 1778, is hereby amended to read as follows:

Sec. 29. 1. Except as otherwise provided in this section and in section 34 of this act and in addition to all other sales and use taxes, the Board of County Commissioners of Churchill, Elko, Humboldt, Washoe and Lander counties and the Board of Supervisors of Carson City may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to 1/4 of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in the county.

2. The tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. The ordinance enacted pursuant to this section must include provisions in substance as follows:

(a) Provisions substantially identical to those of the Local School Support Tax Law, insofar as applicable.

(b) A provision that all amendments to the provisions of the Local School Support Tax Law subsequent to the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of the ordinance enacted pursuant to subsection 1.

(c) A provision that the county shall contract before the effective date of the ordinance enacted pursuant to subsection 1 with the Department to

perform all functions incident to the administration or operation of the tax imposed pursuant to subsection 1.

(d) A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property which was executed before July 30, 1991, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the additional tax pursuant to this section.

(e) A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county under this section must be paid to the Department of Taxation in the form of remittances made payable to the Department of Taxation.

5. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the ~~[Tax Distribution Fund for the county in which it was collected.]~~ ***Sales and Use Tax Account in the State General Fund.***

6. ***The State Controller, acting upon the collection data furnished by the Department, shall monthly:***

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this section during the preceding month as compensation to the State for the cost of collecting the tax.

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in each county during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Credit the amount determined pursuant to paragraph (b) to the Tax Distribution Fund for the county in which the tax was collected.

7. Any ordinance enacted pursuant to this section is deemed to include the provisions set forth in paragraph (d) of subsection 3.

Sec. 24. Section 9 of the Nevada Commission for the Reconstruction of the V & T Railway Act of 1993, being chapter 566, Statutes of Nevada 1993, at page 2329, as amended by chapter 400, Statutes of Nevada 2003, at page 2389 and chapter 421, Statutes of Nevada 2005, at page 1778, is hereby amended to read as follows:

Sec. 9. 1. The Commission shall adopt a budget for its operation and for each project it proposes for presentation to the governing bodies. Each budget must be accompanied by a proposed allocation of the net cost of the budget among the governing bodies which must be based upon the benefit of

the Commission or project to the jurisdiction of the governing body or another equally appropriate indicator.

2. Upon final determination and allocation of the costs by agreement of the governing bodies, each governing body shall include its portion of the costs in its budget for the purposes of chapter 354 of NRS and shall fund its share of the cost by:

- (a) Issuing bonds pursuant to chapter 350 of NRS;
- (b) Imposing an additional tax on the rental of transient lodging;
- (c) Upon approval by the voters, imposing an additional tax upon retailers at a rate not exceeding one-half of 1 percent of the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed in the county;
- (d) Upon approval of the voters, levying a property tax not exceeding 2 cents per \$100 of assessed valuation on all taxable property in the county; or
- (e) Any combination of the options provided in paragraphs (a) to (d), inclusive, including the issuance of bonds which will be repaid from the revenue of one or more of the taxes authorized in this section which may be treated as pledged revenues for the purposes of NRS 350.020.

3. If the county imposes a tax pursuant to paragraph (c) of subsection 2 it shall include in the ordinance imposing the tax:

- (a) Provisions substantially identical to those contained in chapter 374 of NRS;
- (b) A provision stating that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with the provisions of the ordinance, automatically become a part of the ordinance;
- (c) A provision that the county shall contract before the effective date of the ordinance with the Department to perform all functions incident to the administration or operation of the tax in the county; and
- (d) The date on which the tax must first be imposed, which must be the first day of the first calendar quarter that begins at least 120 days after the adoption of the ordinance by the governing body.

4. **If the county imposes a tax pursuant to paragraph (c) of subsection 2:**

(a) All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county under that paragraph must be paid to the Department in the form of remittances payable to the Department.

(b) The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

(c) The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(1) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected pursuant to that paragraph during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

(2) Determine for the county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to that paragraph during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(3) Transfer the amount determined for the county to the Intergovernmental Fund and remit the money to the Treasurer of the Commission.

5. The Commission is not entitled to a distribution of revenue from the supplemental city-county relief tax.

Sec. 25. Section 18 of the Nye County Sales and Use Tax Act of 2007, being chapter 545, Statutes of Nevada 2007, at page 3427, is hereby amended to read as follows:

Sec. 18. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~the percentage~~ 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 26. Section 24 of the Railroad Grade Separation Projects Act, being chapter 506, Statutes of Nevada 1997, at page 2406, as amended by chapter 439, Statutes of Nevada 1997, at page 1554, chapter 28, Statutes of Nevada 1999, at page 64, chapter 400, Statutes of Nevada 2003, at page 2392 and chapter 421, Statutes of Nevada 2005, at page 1778, is hereby amended to read as follows:

Sec. 24. 1. The Board of County Commissioners of Washoe County may by ordinance, but not as in a case of emergency, impose a tax upon the retailers at the rate of not more than one-eighth of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in the county if:

(a) The City of Reno imposes a tax on the rental of transient lodging pursuant to NRS 268.7845 in the maximum amount allowed by that section; and

(b) The Board receives a written commitment from one or more sources for the expenditure of not less than one-half of the total cost of a project for the acquisition, establishment, construction or expansion of railroad grade separation projects in Washoe County, including the estimated proceeds of the tax described in paragraph (a).

2. An ordinance enacted pursuant to subsection 1 may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the Board of County Commissioners.

3. An ordinance enacted pursuant to subsection 1 must specify the date on which the tax must first be imposed which must occur on the first day of the first month of the next calendar quarter that is at least 120 days after the date on which a two-thirds majority of the Board of County Commissioners approved the question.

4. An ordinance enacted pursuant to subsection 1 must include provisions in substance as follows:

(a) Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

(b) A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of an ordinance enacted pursuant to subsection 1.

(c) A provision stating the specific purpose for which the proceeds of the tax must be expended.

(d) A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract:

(1) Entered into on or before the effective date of the tax; or

(2) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax if the bid was afterward accepted,

↪ if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax.

5. No ordinance imposing a tax which is enacted pursuant to subsection 1 may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to subsection 1 until those bonds or other obligations have been discharged in full.

6. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation.

7. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

8. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ **1.75 percent** of all fees, taxes, interest and penalties collected pursuant to this section during the preceding month as compensation to the state for the cost of collecting the taxes. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785 but the percentage must be applied to the proceeds collected pursuant to this section only.]~~

(b) Determine for the County an amount of money equal to any fees, taxes, interest and penalties collected in or for the county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for the County to the Intergovernmental Fund and remit the money to the County Treasurer.

9. The County Treasurer shall deposit the money received pursuant to subsection 8 in the County Treasury for credit to a fund to be known as the Railroad Grade Separation Projects Fund. The Railroad Grade Separation Projects Fund must be accounted for as a separate fund and not as a part of any other fund.

10. The money in the Railroad Grade Separation Projects Fund, including interest and any other income from the Fund must be used by the Board of County Commissioners for the cost of the acquisition, establishment, construction or expansion of one or more railroad grade separation projects, including the payment and prepayment of principal and interest on notes, bonds or other obligations issued to fund such projects.

Sec. 27. Notwithstanding any provision of sections 2, 3, 5 to 16, inclusive, and 19 to 26, inclusive, of this act to the contrary, the provisions of those sections must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any political subdivision of this State or other public entity, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

~~Sec. 27~~ **Sec. 28. 1. This section and sections 4, 18 and 27 of this act become effective upon passage and approval.**

2. Sections 2, 3, 5, 6, 7, 9, 11 to 16, inclusive, and 19 to 26, inclusive, of this act become effective on July 1, 2009.

3. Section 17 of this act becomes effective on July 1, 2011.

4. Section 20 of this act expires by limitation on September 30, 2025.

5. Section 25 of this act expires by limitation on September 30, 2027.

6. Sections 7 and 9 of this act expire by limitation on September 30, 2029.

7. Sections 8 and 10 of this act become effective on October 1, 2029.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that upon return from the printer, Senate Bill No. 293 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguela moved that Assembly Bill No. 523 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguela moved that Assembly Bill No. 146 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguela moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 64, 254, 543, 546, 547, 552, and 557.

Motion carried.

Assemblyman Oceguela moved that all rules be suspended and that Assembly Bills Nos. 64, 254, 541, 543, 546, 547, 552, 557 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

Assemblyman Oceguela moved that Senate Bills Nos. 137, 175, 218, and 222 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Oceguela moved that Senate Bill No. 229 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 114 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 389 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 229.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Senate Bill No. 229:

YEAS—42.

NAYS—None.

Senate Bill No. 229 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 146.

Bill read third time.

Remarks by Assemblymen Ocegueda and Settlemeyer.

Roll call on Assembly Bill No. 146:

YEAS—33.

NAYS—Carpenter, Christensen, Cobb, Goedhart, Grady, Gustavson, Hambrick, McArthur, Settlemeyer—9.

Assembly Bill No. 146 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 523.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 808.

AN ACT relating to mortgage lending; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; ~~establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents, residential mortgage loan originators or mortgage bankers;~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. ~~Sections [2-18 and 76-80]~~ **1.5-18, 21, 23, 24, 50.1-50.7 and 55-85** of this bill establish provisions for the licensing and registration with the nationwide mortgage licensing system and registry of residential mortgage loan originators, in compliance with federal law.

~~Section [58]~~ **55** of this bill **also** increases the administrative fine the Commissioner of Mortgage Lending may impose upon an applicant for or a holder of a license as a mortgage broker, mortgage agent or residential

mortgage loan originator for certain violations from \$10,000 to \$25,000 for each violation. (NRS 645B.670)

Section 85.5 of this bill repeals provisions for the licensing of certain persons on behalf of a corporation or limited-liability company as mortgage agents. (NRS 645B.455)

~~Sections 65-75 of this bill establish the Mortgage Education, Research and Recovery Fund for persons defrauded by mortgage brokers, mortgage agents, residential mortgage loan originators or mortgage bankers. The provisions of this bill are patterned closely after the provisions in chapter 645 of NRS which establish a recovery fund for persons defrauded by real estate brokers. (NRS 645.841-645.8494) Section 66 creates the Fund. Section 67 provides for funding for the Fund. Sections 68-70 and 72-74 provide for administration of the Fund and payment of claims against the Fund. Section 71 requires the license of a licensee to be automatically suspended until he repays to the Fund any amount paid from the Fund to settle a claim against that licensee. Section 75 provides that this bill does not limit the authority of the Division of Mortgage Lending of the Department of Business and Industry to take disciplinary action against a licensee.~~

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~18,~~ 8, inclusive, of this act.

Sec. 1.5. "Clerical or ministerial tasks" means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan.

Sec. 2. "Nationwide Mortgage Licensing System and Registry" or "Registry" means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensing and registration of residential mortgage loan originators.

~~Sec. 3. ["Nontraditional mortgage loan product" means any mortgage product other than a 30 year fixed rate mortgage.] (Deleted by amendment.)~~

~~Sec. 4. ["Registered loan originator" means a natural person who, except for subsection 3 of section 6 of this act, meets the definition of a residential mortgage loan originator and:~~

~~1. Is an employee of a depository institution, a subsidiary that is owned and controlled by a depository financial institution and regulation by a federal banking agency, or an institution regulated by the Farm Credit Administration; and~~

~~2. Is registered with and maintains a unique identifier through the Registry.] (Deleted by amendment.)~~

Sec. 5. "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this section, "dwelling" has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).

Sec. 6. "Residential mortgage loan originator" means a natural person who takes a residential mortgage loan application ~~and~~ or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain. The term does not include:

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

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

~~3. A registered loan originator.~~

Sec. 7. ~~["Unique identifier" means a number of other identifier assigned by protocols established by the Registry.] (Deleted by amendment.)~~

Sec. 8. A mortgage broker or qualified employee who wishes to engage in activities as a residential mortgage loan originator or to supervise a mortgage agent who engages in activities as a residential mortgage loan originator must obtain and maintain a license as a mortgage agent pursuant to the provisions of ~~sections 12 to 19,~~ NRS 645B.400 to 645B.460, inclusive. ~~of this act.~~

Sec. 9. ~~The Commissioner may refuse to issue a license as a residential mortgage loan originator to an applicant if the Commissioner has reason to believe that the applicant or any general partner of the applicant has, after October 1, 2009, employed or proposed to employ a person as a residential mortgage loan originator or authorized or proposed to authorize a person to be associated with a residential mortgage loan originator as a residential mortgage loan originator at a time when the applicant or the general partner know or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:~~

~~1. Had been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering; or~~

~~2. Had a license or registration as a residential mortgage loan originator revoked in this State or any other jurisdiction.] (Deleted by amendment.)~~

Sec. 10. ~~[A person shall not act as or provide any of the services of a residential mortgage loan originator or otherwise engage in, carry on or hold himself out as engaging in or carrying on the activities of a residential mortgage loan originator unless the person is licensed pursuant to the provisions of this chapter.] (Deleted by amendment.)~~

Sec. 11. ~~[The unique identifier of a residential mortgage loan originator must be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including, without limitation, business cards or Internet websites, and any other documents as required by regulation or order of the Commissioner.] (Deleted by amendment.)~~

Sec. 12. ~~[I. To obtain a license as a residential mortgage loan originator, a person must:~~

~~(a) File a written application for a license as a residential mortgage loan originator with the Office of the Commissioner on a form prescribed by the Commissioner;~~

~~(b) Comply with the applicable requirements of this chapter;~~

~~(c) Pay an application fee set by the Commissioner of not more than \$185;~~

~~(d) Furnish to the Registry information concerning the applicant's identity, including, without limitation:~~

~~(1) The applicant's fingerprints for submission to the Central Depository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(2) The applicant's personal history and experience, including, without limitation, authorization for the Registry to obtain an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p), and information relating to any administrative, civil or criminal findings by any governmental jurisdiction; and~~

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

~~2.—Except as otherwise provided in this chapter, the Commissioner shall issue a license as a residential mortgage loan originator to an applicant if:~~

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

~~(b) The applicant:~~

~~(1) Has never had a license or registration as a residential mortgage loan originator revoked in this State or any other jurisdiction;~~

~~(2) Has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such~~

~~felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;~~

~~(3) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter;~~

~~(4) Has completed in any state the prelicensing education requirements described in section 15 of this act;~~

~~(5) Has passed a written examination that meets the testing requirements described in section 16 of this act; and~~

~~(6) Has paid into a recovery fund or met the net worth and surety bond requirements as required pursuant to section 17 of this act.~~

~~3. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.]~~
~~(Deleted by amendment.)~~

~~Sec. 13. [1. In addition to any other requirements set forth in this chapter:~~

~~(a) An applicant for the issuance of a license as a residential mortgage loan originator pursuant to this chapter must include the social security number of the applicant in the application submitted to the Commissioner.~~

~~(b) An applicant for the issuance or renewal of a license as a residential mortgage loan originator pursuant to this chapter must submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

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

~~(a) The application or any other forms that must be submitted for the issuance or renewal of a license as a residential mortgage loan originator;~~
~~or~~

~~(b) A separate form prescribed by the Commissioner.~~

~~3. The license as a residential mortgage loan originator may not be issued or renewed by the Commissioner if the applicant:~~

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

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

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

~~applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.] (Deleted by amendment.)~~

Sec. 14. ~~[1. A license as a residential mortgage loan originator issued pursuant to section 12 of this act expires 1 year after the date the license is issued, unless it is renewed. Except as otherwise provided in NRS 645B.490, to renew a license as a residential mortgage loan originator, the holder of the license must submit to the Commissioner each year, on or before the date the registration expires:~~

~~(a) An application for renewal;~~

~~(b) Satisfactory proof that the holder of the license as a residential mortgage loan originator completed, in any state, at least 8 hours of instruction in continuing education that was reviewed and approved by the Registry within the 12 months immediately preceding the date of the application for renewal, including at least the following:~~

~~(1) Three hours of federal law and regulation;~~

~~(2) Two hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and~~

~~(3) Two hours of training relating to lending standards for the nontraditional mortgage loan product workplace; and~~

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

~~2. To satisfy the requirements of subsection 1, a residential mortgage loan originator:~~

~~(a) Shall not take the same approved course in the same or successive years to satisfy the annual requirements for continuing education; and~~

~~(b) If approved by the Registry as an instructor of a course of continuing education, may receive credit for continuing education at the rate of 2 hours of credit for every 1 hour of instruction he teaches.~~

~~3. If the holder of a license as a residential mortgage loan originator fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:~~

~~(a) An application for renewal;~~

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

~~(c) A reinstatement fee of \$75.~~

~~4. To be issued a duplicate copy of a license as a residential mortgage loan originator, a person must make a satisfactory showing of its loss and pay a fee of \$10.~~

~~5. In addition to the requirements of this section, if a person's license as a residential mortgage loan originator has expired or has been cancelled for 5 years or more, the person must meet the examination requirements described in section 16 of this act.~~

~~6. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.] (Deleted by amendment.)~~

~~Sec. 15. [To meet the preclicensing requirements pursuant to section 12 of this act, an applicant for a license as a residential mortgage loan originator must complete, on or before the date of the application for an original license as a residential mortgage loan originator, 20 hours of instruction in courses reviewed and approved by the Registry, including at least the following:~~

- ~~1. Three hours of federal law and regulations;~~
- ~~2. Three hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and~~
- ~~3. Two hours of training relating to lending standards for the nontraditional mortgage loan product marketplace.] (Deleted by amendment.)~~

~~Sec. 16. [1. To meet the written test requirement in section 12 of this act, an applicant for a license as a residential mortgage loan originator must successfully pass a written examination developed by the Registry and administered by a provider approved by the Registry. Except as otherwise provided by NRS 622.090, to successfully pass the examination, the applicant must obtain a score of at least 75 percent.~~

~~2. An applicant may retake the written examination up to three consecutive times, except that each consecutive examination must occur not earlier than at least 30 days before the previous examination was taken.~~

~~3. An applicant who fails three consecutive examinations must not be allowed to retake the examination for at least 6 months after the date of the last examination.] (Deleted by amendment.)~~

~~Sec. 17. [1. To meet the requirements set forth in section 12 of this act, a person must:~~

~~(a) Have paid into the Mortgage Education, Research and Recovery Fund created by section 66 of this act all amounts required by law and any amount required by the Commissioner;~~

~~(b) Satisfy minimum net worth as prescribed by NRS 645B.115; or~~

~~(c) Satisfy surety bond requirements pursuant to subsection 2.~~

~~2. The Commissioner shall adopt regulations establishing surety bond requirements, which must be in proportion to the monetary amount of loans originated by a residential mortgage loan originator.] (Deleted by amendment.)~~

~~Sec. 18. [A mortgage broker who is a licensed residential mortgage loan originator or who employs or contracts with a licensed residential mortgage loan originator shall submit to the Registry annual reports of condition, which must be in such form and contain such information as the Registry may require.] (Deleted by amendment.)~~

Sec. 19. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, *and sections ~~2 to 7~~ 1.5 to 6, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 20. ~~NRS 645B.0123 is hereby amended to read as follows:~~

~~645B.0123 "Licensee" means a person who is licensed as a mortgage broker pursuant to this chapter. The term does not include a person issued a license as a mortgage agent pursuant to NRS 645B.410 [.] or a person issued a license as a residential mortgage loan originator pursuant to section 12 of this act.~~ **(Deleted by amendment.)**

Sec. 21. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means ~~[(a)]~~ :

(a) A natural person who:

~~[(a)]~~ **(1) Is an employee ~~for independent contractor~~ of a mortgage broker or mortgage banker who is required to be licensed pursuant to this chapter ~~[(a)]~~ or chapter 645E of NRS; and**

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

(b) A mortgage banker, qualified employee or mortgage banker who is required by section 8 or 59 of this act to be licensed as a mortgage agent.

2. The term *includes a residential mortgage loan originator.*

3. *The term* does not include a person who:

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

(b) ~~[(b)]~~ **Is licensed as a residential mortgage loan originator;**

~~[(c)]~~ **Is an owner, general partner, officer or director of a mortgage broker ~~[(a)]~~ or mortgage banker;**

~~[(d)]~~ **Performs only clerical or ministerial tasks for a mortgage broker ~~[(a)]~~; or**

(d) Collects payments and performs related services in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E of NRS.

Sec. 22. ~~NRS 645B.0127 is hereby amended to read as follows:~~

~~645B.0127 1. "Mortgage broker" means a person who, directly or indirectly:~~

~~(a) Holds himself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien on commercial real property;~~

~~(b) Holds himself out for hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on **commercial** real property;~~

~~(c) Holds himself out as being able to make loans secured by liens on **commercial** real property;~~

~~(d) Holds himself out as being able to buy or sell notes secured by liens on **commercial** real property; or~~

~~(e) Offers for sale in this State any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on **commercial** real property.~~

~~2. The term does not include [a].~~

~~(a) A person who is licensed as a mortgage banker, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter [.] ; or~~

~~(b) A person who is licensed as a residential mortgage loan originator and whose activities are limited to those involving residential mortgage loans, unless the person is also licensed as a mortgage broker pursuant to this chapter.] (Deleted by amendment.)~~

Sec. 23. NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker ~~[.]~~ or mortgage agent ~~for residential mortgage loan originator~~ must:

(a) Complete education on mortgage lending as required by this chapter ~~[.]~~ or ~~and any regulations adopted thereto; and~~

(b) Successfully pass a written examination as ~~[determined]~~ provided for by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division ~~[.]~~

~~(a) May~~ may hire a testing organization to create, administer and score a written examination. ~~[.]~~ and

~~(b) May create waivers for a written examination.]~~

4. The Commissioner ~~[may]~~ shall adopt regulations to carry out the provisions of this section, including, without limitation ~~[, regulations]~~ :

(a) Regulations relating to the content of a written examination ~~[.]~~ and the scoring of a written examination ~~for any possible waivers of a written examination] [.] ; and~~

(b) Regulations for [the granting of full or partial credit toward the requirements of this section for the completion of educational and testing requirements for residential mortgage loan originators as described in sections 15 and 16 of this act.] compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 24. NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. ~~A~~ Except as otherwise provided in section 14 of this act,
~~or~~ course of continuing education that is required pursuant to this chapter
 must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 25. ~~NRS 645B.0145 is hereby amended to read as follows:~~

~~645B.0145 The provisions of this chapter do not:~~

~~1. Limit any statutory or common-law right of a person to bring a civil action against a mortgage broker, [or] mortgage agent or residential mortgage loan originator for any act or omission involved in the transaction of business by or on behalf of the mortgage broker, [or] mortgage agent [;] or residential mortgage loan originator;~~

~~2. Limit the right of the State to punish a person for the violation of any law, ordinance or regulation; or~~

~~3. Establish a basis for a person to bring a civil action against the State or its officers or employees for any act or omission in carrying out the provisions of this chapter, including, without limitation, any act or omission relating to the disclosure of information or the failure to disclose information pursuant to the provisions of this chapter.] (Deleted by amendment.)~~

Sec. 26. ~~NRS 645B.016 is hereby amended to read as follows:~~

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

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

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

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

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

~~(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.~~

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

~~3.—The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:~~

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

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

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

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

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

~~(a) A license as a mortgage broker, [or] mortgage agent [,] *or residential mortgage loan originator* as applicable, pursuant to this chapter; or~~

~~(b) Another certificate of exemption.~~

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

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

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

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

Sec. 27. [NRS 645B.051 is hereby amended to read as follows:

~~645B.051—1.—Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:~~

~~(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of~~

continuing education during the 12 months immediately preceding the date on which the license expires.

~~2. The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.~~

~~3. The Commissioner may adopt regulations for the granting of full or partial credit toward the requirements of this section for the completion of educational and testing requirements for residential mortgage loan originators as described in sections 15 and 16 of this act.~~

~~4. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138. [Deleted by amendment.]~~

Sec. 28. ~~[NRS 645B.060 is hereby amended to read as follows:~~

~~645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers, [and] mortgage agents and residential mortgage loan originators doing business in this State.~~

~~2. In addition to the other duties imposed upon him by law, the Commissioner shall:~~

~~(a) Adopt regulations:~~

~~(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.~~

~~(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.~~

~~(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.~~

~~(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.~~

~~(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:~~

~~(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and~~

~~(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual~~

~~examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.~~

~~(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers, [and] mortgage agents [.] **and residential mortgage loan originators.** The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.~~

~~(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:~~

~~(1) The Legislative Auditor; or~~

~~(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.~~

~~(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers, [and] mortgage agents **and residential mortgage loan originators** meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.~~

~~3. For each special audit, investigation or examination, a mortgage broker, [or] mortgage agent **or residential mortgage loan originator** shall pay a fee based on the rate established pursuant to NRS 645F.280.~~

~~4. The Commissioner may conduct biennial examinations of a mortgage broker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage broker:~~

~~(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;~~

~~(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;~~

~~(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and~~

~~(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.] (Deleted by amendment.)~~

Sec. 29. ~~[NRS 645B.075 is hereby amended to read as follows:~~

~~645B.075 Each mortgage broker shall pay the assessment levied pursuant to NRS 645F.180. Each mortgage broker, [and] mortgage agent **and residential mortgage loan originator** shall cooperate fully with the audits and examinations performed pursuant thereto.] (Deleted by amendment.)~~

Sec. 30. ~~[NRS 645B.080 is hereby amended to read as follows:~~

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

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

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

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

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

~~3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage brokers and residential mortgage loan originator handling trust accounts and the requirements for keeping records relating to such accounts.] (Deleted by amendment.)~~

Sec. 31. [NRS 645B.085 is hereby amended to read as follows:

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

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

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

~~2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker or residential mortgage loan originator requests such an extension before the date on which the financial statement is due.~~

~~3. If a mortgage broker or residential mortgage loan originator maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker or residential mortgage loan originator maintains any accounts described in subsection 4 of NRS 645B.175, those accounts must be~~

audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker ~~[-] or residential mortgage loan originator.~~

~~4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3. (Deleted by amendment.)~~

Sec. 32. ~~[NRS 645B.090 is hereby amended to read as follows:~~

~~645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.~~

~~2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:~~

~~(a) Impede or otherwise interfere with an investigation that is currently pending against a mortgage broker;~~

~~(b) Have an undesirable effect on the welfare of the public or the welfare of any mortgage broker, [or] mortgage agent [-] or residential mortgage loan originator; or~~

~~(c) Give any mortgage broker or residential mortgage loan originator a competitive advantage over any other mortgage broker [-] or residential mortgage loan originator.~~

~~3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker or residential mortgage loan originator to any person who requests it:~~

~~(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker or residential mortgage loan originator pursuant to the provisions of this chapter and which has resulted in a finding by the Commissioner that the mortgage broker or residential mortgage loan originator committed a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; and~~

~~(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker or residential mortgage loan originator pursuant to the provisions of this chapter. (Deleted by amendment.)~~

Sec. 33. ~~[NRS 645B.115 is hereby amended to read as follows:~~

~~645B.115 1. If a mortgage broker or residential mortgage loan originator maintains any accounts described in NRS 645B.175, the mortgage broker and his mortgage agents or the residential mortgage loan originator shall not engage in any activity that is authorized pursuant to this chapter, unless the mortgage broker or residential mortgage loan originator maintains continuously a minimum net worth in the following amount based upon the average monthly balance of the accounts maintained by the~~

~~mortgage broker or residential mortgage loan originator pursuant to NRS 645B.175:~~

~~AVERAGE MONTHLY BALANCE MINIMUM NET
WORTH REQUIRED~~

~~\$100,000 or less \$25,000~~

~~More than \$100,000 but not more than
\$250,000 50,000~~

~~More than \$250,000 but not more than
\$500,000 100,000~~

~~More than \$500,000 but not more than
\$1,000,000 200,000~~

~~More than \$1,000,000 250,000~~

~~The Commissioner shall determine the appropriate initial minimum net worth that must be maintained by the mortgage broker or residential mortgage loan originator pursuant to this section based upon the expected average monthly balance of the accounts maintained by the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.175. After determining the initial minimum net worth that must be maintained by the mortgage broker [,] or residential mortgage loan originator, the Commissioner shall, on an annual basis, determine the appropriate minimum net worth that must be maintained by the mortgage broker or residential mortgage loan originator pursuant to this section based upon the average monthly balance of the accounts maintained by the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.175.~~

~~2.— If requested by the Commissioner, a mortgage broker or residential mortgage loan originator who is subject to the provisions of this section and [his] any mortgage agents of a mortgage broker shall submit to the Commissioner or allow the Commissioner to examine any documentation or other evidence that is related to determining the net worth of the mortgage broker [,] or residential mortgage loan originator.~~

~~3.— The Commissioner:~~

~~(a) Shall adopt regulations prescribing standards for determining the net worth of a mortgage broker [,] or residential mortgage loan originator; and~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

~~Sec. 34. [NRS 645B.165 is hereby amended to read as follows:~~

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

~~2.— The amount held in escrow pursuant to subsection 1 must be released;~~

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

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

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

Sec. 35. [NRS 645B.170 is hereby amended to read as follows:

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

~~2.— The mortgage broker or residential mortgage loan originator has a fiduciary duty to each debtor with respect to the money in an impound trust account.~~

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

~~4.— The mortgage broker or residential mortgage loan originator shall, upon reasonable notice, account to the Commissioner for all money in an impound trust account.~~

~~5.— A mortgage broker or residential mortgage loan originator shall:~~

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

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

~~(1) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual obligations due from the account; and~~

~~(2) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a~~

disposition within that time, the mortgage broker shall maintain the excess money in the account.

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

~~6. A mortgage broker or residential mortgage loan originator shall not make payments from an impound trust account in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent. (Deleted by amendment.)~~

Sec. 36. [NRS 645B.175 is hereby amended to read as follows:

~~645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents or a residential mortgage loan originator from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:~~

~~(a) Be deposited in:~~

~~(1) An insured depository financial institution; or~~

~~(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.~~

~~(b) Be kept separate from money:~~

~~(1) Belonging to the mortgage broker or residential mortgage loan originator in an account appropriately named to indicate that the money does not belong to the mortgage broker [.] or residential mortgage loan originator.~~

~~(2) Received pursuant to subsection 4.~~

~~2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:~~

~~(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker or residential mortgage loan originator for the payment of any fee or service charge;~~

~~(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or~~

~~(c) Pursuant to any instructions regarding the escrow account.~~

~~3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or his designee unless:~~

~~(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker or residential mortgage loan originator for the payment of any fee or service charge; and~~

~~(b) The mortgage broker or residential mortgage loan originator has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which~~

names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

~~4. Except as otherwise provided in this section, all money paid to a mortgage broker and his mortgage agents or to a residential mortgage loan originator by a person in full or in partial payment of a loan secured by a lien on real property, must:~~

~~(a) Be deposited in:~~

~~(1) An insured depository financial institution; or~~

~~(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.~~

~~(b) Be kept separate from money:~~

~~(1) Belonging to the mortgage broker or residential mortgage loan originator in an account appropriately named to indicate that it does not belong to the mortgage broker [.] or residential mortgage loan originator.~~

~~(2) Received pursuant to subsection 1.~~

~~5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:~~

~~(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker [.] or residential mortgage loan originator, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and~~

~~(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.~~

~~6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not act as the attorney in fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:~~

~~(a) Receive the waived payment or payments, or portions thereof, at a later date; or~~

~~(b) Receive all other payments in full and in accordance with the provisions of subsection 5.~~

~~7. Upon reasonable notice, any mortgage broker or residential mortgage loan originator described in this section shall:~~

~~(a) Account to any investor or debtor who has paid to the mortgage broker or his mortgage agents or to a residential mortgage loan originator money that is required to be deposited in a trust account pursuant to this section; and~~

~~(b) Account to the Commissioner for all money which the mortgage broker and his mortgage agents [have] or the residential mortgage loan originator has received from each investor or debtor and which the mortgage~~

broker ~~or residential mortgage loan originator~~ is required to deposit in a trust account pursuant to this section.

8. ~~Money received by a mortgage broker and his mortgage agents or a residential mortgage loan originator pursuant to this section from a person who is not associated with the mortgage broker or residential mortgage loan originator may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45 day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker or residential mortgage loan originator for at least 15 days.~~

9. ~~If a mortgage broker, [or] a mortgage agent or a residential mortgage loan originator receives any money pursuant to this section, the mortgage broker, [or] mortgage agent [,] or residential mortgage loan originator, after the deduction and payment of any fee or service charge due the mortgage broker [,] or residential mortgage loan originator, shall not release the money to:~~

(a) ~~Any person who does not have a contractual or legal right to receive the money; or~~

(b) ~~Any person who has a contractual right to receive the money if the mortgage broker, [or] mortgage agent or residential mortgage loan originator knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.~~

10. ~~If a mortgage broker or residential mortgage loan originator maintains any accounts described in subsection 1 or subsection 4, the mortgage broker or residential mortgage loan originator shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.~~

11. ~~The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.] (Deleted by amendment.)~~

Sec. 37. ~~[NRS 645B.180 is hereby amended to read as follows:~~

645B.180 1. ~~Money in an impound trust account is not subject to execution or attachment on any claim against the mortgage broker or his mortgage agents [,] or the residential mortgage loan originator.~~

2. ~~It is unlawful for a mortgage broker or his mortgage agents or a residential mortgage loan originator knowingly to keep or cause to be kept any money in a depository financial institution under the heading of "impound trust account" or any other name designating such money as belonging to the investors or debtors of the mortgage broker [,] or residential mortgage loan originator unless the money has been paid to the mortgage broker or his mortgage agents or the residential mortgage loan originator by~~

~~an investor or debtor and is being held in trust by the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.170 or 645B.175.] (Deleted by amendment.)~~

Sec. 38. [NRS 645B.185 is hereby amended to read as follows:

~~645B.185 1. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not accept money from a private investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless:~~

~~(a) The private investor and the mortgage broker, [or] mortgage agent or residential mortgage loan originator sign and date a disclosure form that complies with the provisions of this section; and~~

~~(b) The mortgage broker, [or] mortgage agent or residential mortgage loan originator gives the private investor the original disclosure form that has been signed and dated.~~

~~2. A private investor and a mortgage broker, [or] mortgage agent or residential mortgage loan originator must sign and date a separate disclosure form pursuant to subsection 1 for each loan in which the private investor invests his money. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not act as the attorney in fact or the agent of a private investor with respect to the signing or dating of any disclosure form.~~

~~3. In addition to the requirements of subsections 1 and 2, a mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not accept money from a private investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker, [or] mortgage agent or residential mortgage loan originator gives the private investor a written form by which the private investor may request that the mortgage broker or residential mortgage loan originator authorize the Commissioner to release the mortgage broker's or residential mortgage loan originator's financial statement to the private investor. Such a form must be given to the private investor for each loan. If the private investor, before giving money to the mortgage broker or residential mortgage loan originator for the loan, requests that the mortgage broker or residential mortgage loan originator authorize the release of a financial statement pursuant to this subsection, the mortgage broker and his mortgage agents or the residential mortgage loan originator shall not accept money from the private investor for that loan until the mortgage broker or residential mortgage loan originator receives notice from the Commissioner that the financial statement has been released to the private investor.~~

~~4. A private investor and a mortgage broker, [or] mortgage agent or residential mortgage loan originator may not agree to alter or waive the provisions of this section by contract or other agreement. Any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.~~

~~5.—A mortgage broker or residential mortgage loan originator shall retain a copy of each disclosure form that is signed and dated pursuant to subsection 1 for the period that is prescribed in the regulations adopted by the Commissioner.~~

~~6.—The standard provisions for each such disclosure form must include, without limitation, statements:~~

~~(a) Explaining the risks of investing through the mortgage broker [.] or residential mortgage loan originator, including, without limitation:~~

~~(1) The possibility that the debtor may default on the loan;~~

~~(2) The nature of the losses that may result through foreclosure;~~

~~(3) The fact that payments of principal and interest are not guaranteed and that the private investor may lose the entire amount of principal that he has invested;~~

~~(4) The fact that the mortgage broker or residential mortgage loan originator is not a depository financial institution and that the investment is not insured by any depository insurance and is not otherwise insured or guaranteed by the Federal or State Government; and~~

~~(5) Any other information required pursuant to the regulations adopted by the Commissioner; and~~

~~(b) Disclosing to the private investor the following information if the information is known or, in light of all the surrounding facts and circumstances, reasonably should be known to the mortgage broker [.] or residential mortgage loan originator:~~

~~(1) Whether the real property that will secure the loan is encumbered by any other liens and, if so, the priority of each such lien, the amount of debt secured by each such lien and the current status of that debt, including, without limitation, whether the debt is being paid or is in default;~~

~~(2) Whether the residential mortgage loan originator or the mortgage broker or any general partner, officer, director or mortgage agent of the mortgage broker has any direct or indirect interest in the debtor;~~

~~(3) Whether any disciplinary action has been taken by the Commissioner against the residential mortgage loan originator or the mortgage broker or any general partner, officer or director of the mortgage broker within the immediately preceding 12 months, and the nature of any such disciplinary action;~~

~~(4) Whether the residential mortgage loan originator or the mortgage broker or any general partner, officer or director of the mortgage broker has been convicted within the immediately preceding 12 months for violating any law, ordinance or regulation that involves fraud, misrepresentation or a deceitful, fraudulent or dishonest business practice; and~~

~~(5) Any other information required pursuant to the regulations adopted by the Commissioner.~~

~~7.—Whether or not a mortgage broker or residential mortgage loan originator is required to disclose any information to private investors through a disclosure form that complies with the provisions of this section,~~

~~the Commissioner may order the mortgage broker *or residential mortgage loan originator* to disclose to private investors and other investors or to the general public any information concerning the *residential mortgage loan originator or the mortgage broker*, any general partner, officer, director or mortgage agent of the mortgage broker or any loan in which the mortgage broker *or residential mortgage loan originator* is or has been involved, if the Commissioner, in his judgment, believes that the information:~~

~~(a) Would be of material interest to a reasonable investor who is deciding whether to invest money with the mortgage broker [;] *or residential mortgage loan originator*; or~~

~~(b) Is necessary to protect the welfare of the public.~~

~~8. In carrying out the provisions of subsection 7, the Commissioner may, without limitation, order a mortgage broker *or residential mortgage loan originator* to include statements of disclosure prescribed by the Commissioner.~~

~~(a) In the disclosure form that must be given to private investors pursuant to subsection 1;~~

~~(b) In additional disclosure forms that must be given to private investors and other investors before or after they have invested money through the mortgage broker [;] *or residential mortgage loan originator*; or~~

~~(c) In any advertisement that the mortgage broker *or residential mortgage loan originator* uses in carrying on his business.~~

~~9. The Commissioner:~~

~~(a) Shall adopt regulations prescribing the period for which a mortgage broker *or residential mortgage loan originator* must retain a copy of each disclosure form that is given to private investors; and~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section, including, without limitation, regulations specifying the size of print and any required formatting or typesetting that a mortgage broker *or residential mortgage loan originator* must use in any form that is given to private investors. (Deleted by amendment.)~~

~~Sec. 39. [NRS 645B.186 is hereby amended to read as follows:~~

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

~~(a) A construction control;~~

~~(b) An escrow agency or escrow agent; or~~

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

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

~~the licensee to transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer on behalf of the investor.~~

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

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

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

~~3.—As used in this section, “licensee” means:~~

~~(a) A person who is licensed as a mortgage broker or residential mortgage loan originator pursuant to this chapter; and~~

~~(b) Any general partner, officer or director of such a person.] (Deleted by amendment.)~~

Sec. 40. ~~[NRS 645B.187 is hereby amended to read as follows:~~

~~645B.187—1.—If a mortgage broker, [or] mortgage agent or residential mortgage loan originator solicits or receives money from an investor, the mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not:~~

~~(a) In any advertisement; or~~

~~(b) Before, during or after solicitation or receipt of money from the investor,~~

~~→ make, or cause or encourage to be made, any explicit or implicit statement, representation or promise, oral or written, which a reasonable person would construe as a guarantee that the investor will be repaid the principal amount of money he invests or will earn a specific rate of return or a specific rate of interest on the principal amount of money he invests.~~

~~2.—If a mortgage broker or residential mortgage loan originator offers to pay or pays premium interest on money that the mortgage broker or residential mortgage loan originator receives from a person to acquire ownership of or a beneficial interest in a loan secured by a lien on real property or in full or partial payment of such a loan:~~

~~(a) The premium interest must be paid from the assets or income of the mortgage broker [;] or residential mortgage loan originator; and~~

~~(b) The mortgage broker, [or a] mortgage agent or residential mortgage loan originator shall not:~~

~~(1) In any advertisement; or~~

~~(2) Before, during or after receipt of money from such a person;~~

~~→ make, or cause or encourage to be made, any explicit or implicit statement, representation or promise, oral or written, which a reasonable person would construe as a guarantee that the mortgage broker will pay the premium interest.~~

~~3.—A person who violates any provision of this section is guilty of a misdemeanor and shall be punished as provided in NRS 645B.950.~~

~~4.—As used in this section, “premium interest” means that amount of interest a mortgage broker *or residential mortgage loan originator* pays to a person which exceeds the amount which is being obtained from the insured depository financial institution.] (Deleted by amendment.)~~

Sec. 41. ~~[NRS 645B.189 is hereby amended to read as follows:~~

~~645B.189 1. If, in carrying on his business, a mortgage broker *or residential mortgage loan originator* uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker *or residential mortgage loan originator* shall include in each such advertisement a statement of disclosure in substantially the following form:~~

~~Money invested through a mortgage broker *or residential mortgage loan originator* is not guaranteed to earn any interest or return and is not insured.~~

~~2. A mortgage broker *or residential mortgage loan originator* shall include in each advertisement that the mortgage broker *or residential mortgage loan originator* uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.~~

~~3. Each mortgage broker *or residential mortgage loan originator* who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker *or residential mortgage loan originator* intends to use in carrying on his business to the Commissioner for approval.~~

~~4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker *or residential mortgage loan originator* uses in carrying on his business must comply with the requirements of:~~

~~(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and~~

~~(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.~~

~~5. If a mortgage broker *or residential mortgage loan originator* violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker *or residential mortgage loan originator* for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker [.] *or residential mortgage loan originator*.~~

~~6.—The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 42. ~~[NRS 645B.196 is hereby amended to read as follows:~~

~~645B.196 1. An advertising spokesperson for a mortgage broker *or residential mortgage loan originator* is jointly and severally liable with the~~

~~mortgage broker or residential mortgage loan originator for damages caused by the mortgage broker or residential mortgage loan originator by fraud, embezzlement, misappropriation of property, a violation of the provisions of this chapter or the regulations adopted pursuant thereto, or an action of the mortgage broker or residential mortgage loan originator that is grounds for disciplinary action, if:~~

~~(a) The advertising spokesperson knew or should have known of the fraud, embezzlement, misappropriation of property, violation of the provisions of this chapter or the regulations adopted pursuant thereto, or action of the mortgage broker or residential mortgage loan originator that is grounds for disciplinary action; or~~

~~(b) In advertising for the mortgage broker [,] or residential mortgage loan originator, the advertising spokesperson knew or should have known that:~~

~~(1) The conduct of the advertising spokesperson was likely to deceive, defraud or harm the public or any person who engaged in business with the mortgage broker [,] or residential mortgage loan originator; or~~

~~(2) The advertising spokesperson was disseminating material information concerning the mortgage broker or residential mortgage loan originator or the business, products or services of the mortgage broker or residential mortgage loan originator which was false or misleading.~~

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

~~(a) "Advertising for a mortgage broker ["] or residential mortgage loan originator" means advertising or otherwise promoting a mortgage broker or residential mortgage loan originator or the business, products or services of the mortgage broker or residential mortgage loan originator using any medium of communication.~~

~~(b) "Advertising spokesperson for a mortgage broker ["] or residential mortgage loan originator" or "advertising spokesperson" means a person who consents to and receives compensation for using his name or likeness in advertising for a mortgage broker [,] or residential mortgage loan originator.] (Deleted by amendment.)~~

Sec. 43. [NRS 645B.240 is hereby amended to read as follows:

~~645B.240 1. If a person is required to make a payment to a mortgage broker or residential mortgage loan originator pursuant to the terms of a loan secured by a lien on real property, the mortgage broker or residential mortgage loan originator may not charge the person a late fee, an additional amount of interest or any other penalty in connection with that payment if the payment is delivered to the mortgage broker or residential mortgage loan originator before 5 p.m. on:~~

~~(a) The day that the payment is due pursuant to the terms of the loan, if an office of the mortgage broker or residential mortgage loan originator is open to customers until 5 p.m. on that day; or~~

~~(b) The next day that an office of the mortgage broker or residential mortgage loan originator is open to customers until 5 p.m., if the provisions of paragraph (a) do not otherwise apply.~~

~~2.—A person and a mortgage broker, [or] mortgage agent *or residential mortgage loan originator* may not agree to alter or waive the provisions of this section by contract or other agreement, and any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section. (Deleted by amendment.)~~

Sec. 44. ~~[NRS 645B.250 is hereby amended to read as follows:~~

~~645B.250—Except pursuant to a contract for the collection or servicing of a loan which is governed by the requirements established by the Government National Mortgage Association, Federal Home Loan Mortgage Corporation or Federal National Mortgage Association, a mortgage broker, [or] mortgage agent *or residential mortgage loan originator* shall not advance payments to an investor on behalf of a person who has obtained a loan secured by a lien on real property and who has defaulted in his payments.] (Deleted by amendment.)~~

Sec. 45. ~~[NRS 645B.260 is hereby amended to read as follows:~~

~~645B.260—1. If a mortgage broker *or residential mortgage loan originator* maintains any accounts described in subsection 4 of NRS 645B.175 in which the mortgage broker *or residential mortgage loan originator* deposits payments from a debtor on a loan secured by a lien on real property and, on the last day of any month, the debtor has failed to make two or more consecutive payments in accordance with the terms of the loan, the mortgage broker *or residential mortgage loan originator* shall:~~

~~(a) Include in the report that the mortgage broker *or residential mortgage loan originator* submits to the Commissioner pursuant to subsection 2 of NRS 645B.080 the information relating to delinquencies in payments and defaults that is required by the regulations adopted pursuant to subsection 2;~~

~~(b) Not later than 15 days after the last day of each such month, mail to the last known address of each investor who owns a beneficial interest in the loan a notice containing the information relating to delinquencies in payments and defaults that is required by the regulations adopted pursuant to subsection 2; and~~

~~(c) Comply with the provisions of this section each month on a continuing basis until:~~

~~(1) The debtor or his designee remedies the delinquency in payments and any default; or~~

~~(2) The lien securing the loan is extinguished.~~

~~2.—The Commissioner:~~

~~(a) Shall adopt regulations prescribing the information relating to delinquencies in payments and defaults that a mortgage broker *or residential mortgage loan originator* must include in his report to the commissioner and in the notice mailed to investors pursuant to subsection 1. Such regulations may provide for variations between the information that a mortgage broker *or residential mortgage loan originator* must include in his report to the Commissioner and the information that a mortgage broker *or residential mortgage loan originator* must include in the notice mailed to investors.~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 46. ~~[NRS 645B.300 is hereby amended to read as follows:~~

~~645B.300 1. Except as otherwise provided in subsection 4, a mortgage broker, [or] mortgage agent *or residential mortgage loan originator* shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker *or residential mortgage loan originator* has obtained a written appraisal of the real property securing the loan.~~

~~2. The written appraisal of the real property:~~

~~(a) Must be performed by an appraiser who is authorized to perform appraisals in this State; and~~

~~(b) Must not be performed by the mortgage broker, [or] a mortgage agent [.] *or a residential mortgage loan originator* unless the mortgage broker, [or] mortgage agent *or residential mortgage loan originator* is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.~~

~~3. A copy of the written appraisal of the real property must be:~~

~~(a) Maintained at each office of the mortgage broker *or residential mortgage loan originator* where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and~~

~~(b) Made available during normal business hours for inspection by each such investor and the Commissioner.~~

~~4. A mortgage broker *or residential mortgage loan originator* is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker *or residential mortgage loan originator* obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker, [or] mortgage agent *or residential mortgage loan originator* shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.~~

~~5. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.] (Deleted by amendment.)~~

Sec. 47. ~~[NRS 645B.305 is hereby amended to read as follows:~~

~~645B.305 A mortgage broker *or residential mortgage loan originator* shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker *or residential mortgage loan originator* includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.] (Deleted by amendment.)~~

Sec. 48. ~~[NRS 645B.310 is hereby amended to read as follows:~~

~~645B.310 A mortgage broker *or residential mortgage loan originator* shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker [.] *or residential mortgage loan originator*.~~

- ~~1.—Obtains a policy of title insurance for the real property;~~
- ~~2.—Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and~~
- ~~3.—Records the assignment in the office of the county recorder of the county in which the real property is located.] (Deleted by amendment.)~~

Sec. 49. ~~[NRS 645B.320 is hereby amended to read as follows:~~

~~645B.320 If money from an investor is released to a debtor or his designee pursuant to subsection 2 of NRS 645B.175 upon completion of a loan secured by a lien on real property, the mortgage broker *or residential mortgage loan originator* that arranged the loan shall, not later than 3 business days after the date on which the mortgage broker *or residential mortgage loan originator* receives a copy of the recorded deed of trust, mail to the last known address of each investor who owns a beneficial interest in the loan a copy of the recorded deed of trust.] (Deleted by amendment.)~~

Sec. 50. ~~[NRS 645B.330 is hereby amended to read as follows:~~

~~645B.330 1.—A mortgage broker, [or] mortgage agent *or residential mortgage loan originator* shall not engage in any act or transaction on behalf of a private investor pursuant to a power of attorney unless:~~

~~(a) The power of attorney is executed for the sole purpose of providing services for not more than one specific loan in which the private investor owns a beneficial interest; and~~

~~(b) The provisions of the power of attorney:~~

~~(1) Have been approved by the Commissioner;~~

~~(2) Expressly prohibit the mortgage broker and his mortgage agents *or the residential mortgage loan originator* from engaging in any act or transaction that subordinates the priority of a recorded deed of trust unless, before such an act or transaction, the mortgage broker *or residential mortgage loan originator* obtains written approval for the subordination from the private investor;~~

~~(3) Expressly prohibit the mortgage broker and his mortgage agents *or the residential mortgage loan originator* from using or releasing any money in which the private investor owns a beneficial interest with regard to the specific loan for a purpose that is not directly related to providing services for the loan unless, before any such money is used or released for another purpose, the mortgage broker *or residential mortgage loan originator* obtains written approval from the private investor to use or release the money for the other purpose; and~~

~~(4) Expressly provide that the power of attorney is effective only for the term of the specific loan unless the mortgage broker *or residential mortgage loan originator* obtains written approval from the private investor to extend the term of the power of attorney to provide services for not more than one other loan and the written approval;~~

~~(D) Identifies the loan for which the power of attorney was executed; and~~

~~(H) Identifies the loan for which the written approval is being given.~~

~~2. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not act as the attorney-in-fact or the agent of a private investor with respect to the giving of written approval pursuant to paragraph (b) of subsection 1. A private investor and a mortgage broker, [or] mortgage agent or residential mortgage loan originator may not agree to alter or waive the provisions of this section by contract or other agreement. Any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.~~

~~3. Except as otherwise provided in subsection 4, a power of attorney which designates a mortgage broker, [or] mortgage agent or residential mortgage loan originator as the attorney-in-fact or the agent of a private investor and which violates the provisions of this section is void and must not be given effect with regard to any act or transaction that occurs on or after October 1, 1999, whether or not the power of attorney is or has been executed by the private investor before, on or after October 1, 1999.~~

~~4. The provisions of subsection 3 do not apply to a power of attorney that designates a mortgage broker, [or] mortgage agent or residential mortgage loan originator as the attorney-in-fact or the agent of a private investor if the power of attorney:~~

~~(a) Was executed before July 1, 2001; and~~

~~(b) Complied with the provisions of this section that were in effect on October 1, 1999.~~

~~5. The provisions of this section do not limit the right of a private investor to include provisions in a power of attorney that are more restrictive than the provisions set forth in subsection 1.] (Deleted by amendment.)~~

Sec. 50.1. NRS 645B.018 is hereby amended to read as follows:

645B.018 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~[,]~~, **except that an exemption may not be issued for the making of a residential mortgage loan.**

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

(a) The making of the loan would not be detrimental to the financial condition of the lender, the debtor or the person who is providing the money for the loan;

(b) The lender, the debtor or the person who is providing the money for the loan has established a record of sound performance, efficient management, financial responsibility and integrity;

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

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

3. The Commissioner:

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

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

Sec. 50.2. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Has ~~in a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant~~

~~must submit satisfactory proof of these qualifications to the Commissioner.]~~
demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.

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

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

(4) Has ~~[not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.]~~ *never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license suspended or revoked within the immediately preceding 10 years.*

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

~~(6)~~ Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

Sec. 50.3. NRS 645B.0243 is hereby amended to read as follows:

645B.0243 The Commissioner may refuse to issue a license to an applicant if the Commissioner has reasonable cause to believe that the applicant or any general partner, officer or director of the applicant has, after October 1, 1999, employed or proposed to employ a person as a mortgage agent or authorized or proposed to authorize a person to be associated with a mortgage broker as a mortgage agent at a time when the applicant or the general partner, officer or director knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person ~~is~~

~~1. Had been convicted of, or entered a plea of nolo contendere to:~~

~~(a) A felony relating to the practice of mortgage agents; or~~

~~(b) Any crime involving fraud, misrepresentation or moral turpitude; or~~

~~2. Had a financial services license or registration suspended or revoked within the immediately preceding 10 years.]~~ *has committed any act or omission that would be cause for refusing to issue a license to a mortgage agent.*

Sec. 50.4. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051; and
- (d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

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

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

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

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

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

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

- (a) To file an original application for a license, not more than \$1,500 for the principal office and not more than \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.
- (b) To be issued a license, not more than \$1,000 for the principal office and not more than \$60 for each branch office.
- (c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

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

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

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

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

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

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

Sec. 50.5. NRS 645B.410 is hereby amended to read as follows:

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

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than \$185.

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

(a) State the name and residence address of the applicant;

(b) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;

(c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~Include~~ **If he is not licensed as a mortgage broker or mortgage banker pursuant to chapter 645B or 645E of NRS, include** a verified statement from the mortgage broker **or mortgage banker** with whom the applicant will be associated that expresses the intent of that mortgage broker **or mortgage agent** to associate the applicant with the mortgage broker **or mortgage agent** and to be responsible for the activities of the applicant as a mortgage agent; and

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

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

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

(b) The applicant:

(1) Has not been convicted of, or entered a plea of nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude.]~~ **in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;**

(2) Has ~~not~~ **never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction,** or had a financial services license suspended or revoked within the immediately preceding 10 years;

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

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

(5) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ **demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.**

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

Sec. 50.6. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

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

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

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The

Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section; and
- (c) A reinstatement fee of \$75.

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

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

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

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

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

Sec. 50.7. NRS 645B.460 is hereby amended to read as follows:

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents ~~and~~ **and must also be licensed as a mortgage agent if required pursuant to section 8 of this act.** Such reasonable supervision must include, as appropriate:

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

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

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

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

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

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

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

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and

the system to review, oversee and inspect the activities of those mortgage agents.

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

Sec. 51. ~~[NRS 645B.490 is hereby amended to read as follows:~~

~~645B.490—1.—Any mortgage broker, [or] mortgage agent or residential mortgage loan originator licensed under the provisions of this chapter who is called into the military service of the United States shall, at his request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.~~

~~2.—At any time within 6 months after termination of such service, if the mortgage broker, [or] mortgage agent or residential mortgage loan originator complies with the provisions of subsection 1, the mortgage broker, [or] mortgage agent or residential mortgage loan originator may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or 645B.430 [.] or section 14 of this act, and the mortgage broker, [or] mortgage agent or residential mortgage loan originator is not required to make payment of the renewal fee for the current year.~~

~~3.—Any mortgage broker, [or] mortgage agent or residential mortgage loan originator seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his honorable discharge or certificate of satisfactory service to the Commissioner.] (Deleted by amendment.)~~

Sec. 52. ~~[NRS 645B.620 is hereby amended to read as follows:~~

~~645B.620—1.—Whether or not a complaint has been filed, the Commissioner shall investigate a mortgage broker, mortgage agent, residential mortgage loan originator or other person if, for any reason, it appears that:~~

~~(a) The mortgage broker, [or] mortgage agent or residential mortgage loan originator is conducting business in an unsafe and injurious manner or in violation of any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;~~

~~(b) The person is offering or providing any of the services of a mortgage broker, [or] mortgage agent or residential mortgage loan originator or otherwise engaging in, carrying on or holding himself out as engaging in or carrying on the business of a mortgage broker, [or] mortgage agent or residential mortgage loan originator without being appropriately licensed or exempt from licensing pursuant to the provisions of this chapter; or~~

~~(c) The person is violating any other provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.~~

~~2.—If, upon investigation, the Commissioner has reasonable cause to believe that the mortgage broker, mortgage agent, residential mortgage loan~~

~~originator or other person has engaged in any conduct or committed any violation described in subsection 1:~~

~~(a) The Commissioner shall notify the Attorney General of the conduct or violation and, if applicable, the Commissioner shall immediately take possession of the property of the mortgage broker pursuant to NRS 645B.630; and~~

~~(b) The Attorney General shall, if appropriate:~~

~~(1) Investigate and prosecute the mortgage broker, mortgage agent, residential mortgage loan originator or other person pursuant to NRS 645B.800; and~~

~~(2) Bring a civil action to:~~

~~(I) Enjoin the mortgage broker, mortgage agent, residential mortgage loan originator or other person from engaging in the conduct, operating the business or committing the violation; and~~

~~(II) Enjoin any other person who has encouraged, facilitated, aided or participated in the conduct, the operation of the business or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.~~

~~3. If the Attorney General brings a civil action pursuant to subsection 2, the district court of any county of this State is hereby vested with the jurisdiction in equity to enjoin the conduct, the operation of the business or the commission of the violation and may grant any injunctions that are necessary to prevent and restrain the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:~~

~~(a) The court may issue any temporary restraining orders as may appear to be just and proper;~~

~~(b) The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ex parte issuance of a temporary restraining order; and~~

~~(c) The Attorney General may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any person to:~~

~~(1) Produce any documents, books and records as may appear necessary for the hearing of the petition; and~~

~~(2) Testify and give evidence concerning the conduct complained of in the petition.] (Deleted by amendment.)~~

Sec. 53. [NRS 645B.630 is hereby amended to read as follows:

~~645B.630 1. In addition to any other action that is required or permitted pursuant to this chapter, if the Commissioner has reasonable cause to believe that:~~

~~(a) The assets or capital of a mortgage broker or residential mortgage loan originator are impaired; or~~

~~(b) A mortgage broker or residential mortgage loan originator is conducting business in an unsafe and injurious manner that may result in danger to the public;~~

~~the Commissioner shall immediately take possession of all the property, business and assets of the mortgage broker or residential mortgage loan originator that are located in this State and shall retain possession of them pending further proceedings provided for in this chapter.~~

~~2. If the licensee, the board of directors or any officer or person in charge of the offices of the mortgage broker refuses to permit the Commissioner to take possession of the property of the mortgage broker pursuant to subsection 1;~~

~~(a) The Commissioner shall notify the Attorney General; and~~

~~(b) The Attorney General shall immediately bring such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the mortgage broker.~~

~~3. If the Commissioner takes possession of the property of the mortgage broker [,] or residential mortgage loan originator, the Commissioner shall:~~

~~(a) Make or have made an inventory of the assets and known liabilities of the mortgage broker [,] or residential mortgage loan originator;~~

~~(b) File one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the mortgage broker or residential mortgage loan originator is located and shall mail one copy to each stockholder, partner, officer, director or associate of the mortgage broker at his last known address; and~~

~~(c) If the mortgage broker or residential mortgage loan originator maintains any accounts described in NRS 645B.175, not later than 5 business days after the date on which the Commissioner takes possession of the property of the mortgage broker [,] or residential mortgage loan originator, mail notice of his possession to the last known address of each person whose money is deposited in such an account or whose money was or should have been deposited in such an account during the preceding 12 months.~~

~~4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.] (Deleted by amendment.)~~

Sec. 54. ~~[NRS 645B.640 is hereby amended to read as follows:~~

~~645B.640 1. If the Commissioner takes possession of the property of a mortgage broker or residential mortgage loan originator pursuant to NRS 645B.630, the residential mortgage loan originator or the licensee, officers, directors, partners, associates or stockholders of the mortgage broker may, within 60 days after the date on which the Commissioner takes possession of the property, make good any deficit in the assets or capital of the mortgage broker or residential mortgage loan originator or remedy any unsafe and injurious conditions or practices of the mortgage broker [,] or residential mortgage loan originator.~~

~~2.—At the expiration of the 60 day period, if the deficiency in assets or capital has not been made good or the unsafe and injurious conditions or practices remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the mortgage broker or residential mortgage loan originator which are located in this State in the same manner as now provided by law for liquidation of a private corporation in receivership.~~

~~3.—No other person may be appointed receiver by any court without first giving the Commissioner ample notice of his application.~~

~~4.—The inventory made by the Commissioner and all claims filed by creditors are open at all reasonable times for inspection, and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending.~~

~~5.—The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his hands as the receiver.} (Deleted by amendment.)~~

Sec. 55. NRS 645B.670 is hereby amended to read as follows:

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

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than ~~[\$10,000,] \$25,000~~, if the applicant:

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

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

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker ~~or residential mortgage loan originator,} the Commissioner may impose upon the mortgage broker ~~for residential mortgage loan originator, as applicable,} an administrative fine of not more than [\$10,000,] \$25,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker ~~or residential mortgage loan originator,} whether or not acting as such:~~~~~~

(a) Is insolvent;

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

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

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

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

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

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

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

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

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

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

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

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

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

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

(p) Has repeatedly violated the policies and procedures of the mortgage broker ~~for residential mortgage loan originator~~;

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

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

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

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

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

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

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

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

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

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

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

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

which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

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

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

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

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

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

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

Sec. 56. ~~[NRS 645B.680 is hereby amended to read as follows:~~

~~645B.680 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a mortgage broker, [or] mortgage agent [,] ***or residential mortgage loan originator,*** the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~2. The Commissioner shall reinstate a license as a mortgage broker, [or] mortgage agent ***or residential mortgage loan originator*** that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.] ***(Deleted by amendment.)***~~

Sec. 57. ~~[NRS 645B.690 is hereby amended to read as follows:~~

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

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

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

~~the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.~~

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

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

~~(b) Suspend or revoke the license of the mortgage broker [;] or residential mortgage loan originator; and~~

~~(c) Conduct a hearing to determine whether the mortgage broker or residential mortgage loan originator is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.620.] (Deleted by amendment.)~~

Sec. 58. ~~[NRS 645B.900 is hereby amended to read as follows:~~

~~645B.900 It is unlawful for any person to offer or provide any of the services of a mortgage broker, [or] mortgage agent or residential mortgage loan originator or otherwise to engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker, [or] mortgage agent or residential mortgage loan originator without first obtaining the applicable license issued pursuant to this chapter, unless the person:~~

~~1. Is exempt from the provisions of this chapter; and~~

~~2. Complies with the requirements for that exemption.] (Deleted by amendment.)~~

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto ~~a new section to read as follows:] the provisions set forth as sections 59.1 to 59.7, inclusive, of this act.~~

Sec. 59.1. 1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a residential mortgage loan originator or who supervises a mortgage agent who engages in activities as a residential mortgage loan originator, and any employee or independent

contractor of a mortgage banker who engages in activities as a residential mortgage loan originator, must be licensed as a ~~residential mortgage loan originator~~ mortgage agent pursuant to the provisions of ~~chapter 645B of NRS~~ NRS 645B.400 to 645B.460, inclusive.

2. As used in this section, “residential mortgage loan originator” has the meaning ascribed to it in section 6 of this act.

Sec. 59.3. 1. A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:

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

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

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

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

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

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

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

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

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

Sec. 59.5. If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

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

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Sec. 59.7. 1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:

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

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

↳ the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

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

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

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

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

~~Sec. 60. [NRS 645E.100 is hereby amended to read as follows:~~

~~645E.100—1.—“Mortgage banker” means any of the following:~~

~~(a) A person who, directly or indirectly:~~

~~(1) Holds himself out as being able to:~~

~~(I) Buy or sell notes secured by liens on real property; or~~

~~(II) Make loans secured by liens on real property using his own money; and~~

~~(2) Does not engage in any other act or transaction described in the definition of “mortgage broker” “[,]” as set forth in NRS 645B.0127 [,] or “residential mortgage loan originator” as set forth in section 6 of this act, unless the person is also licensed as a mortgage broker or residential mortgage loan originator pursuant to chapter 645B of NRS.~~

~~(b) A person who, directly or indirectly:~~

~~(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor; and~~

~~(2) Does not engage in any other act or transaction described in the definition of “mortgage broker,” as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.~~

~~2. For the purposes of this section, a person does not make a loan secured by a lien on real property using his own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.] (Deleted by amendment.)~~

Sec. 61. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 62 to ~~[77.]~~ 77.5, inclusive, of this act.

Sec. 62. ~~[As used in sections 62 to 77, inclusive, of this act, unless the context otherwise requires, “Fund” means the Mortgage Education, Research and Recovery Fund created by section 63 of this act.] (Deleted by amendment.)~~

Sec. 63. ~~[1. The Mortgage Education, Research and Recovery Fund is hereby created as a special revenue fund.~~

~~2. A balance of not less than \$300,000 must be maintained in the Fund, to be used for satisfying claims against persons licensed under chapters 645B and 645E of NRS as provided in sections 62 to 72, inclusive, of this act. Any balance over \$300,000 remaining in the Fund at the end of any fiscal year must be set aside and used by the Commissioner for education and research relating to mortgages.~~

~~3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.] (Deleted by amendment.)~~

Sec. 64. ~~[The Commissioner shall adopt regulations prescribing a percentage of the fees collected for the issuance or renewal of a license pursuant to chapters 645B and 645E of NRS to be used for mortgage education, research and recovery. The amount must be deposited in the State Treasury for credit to the Fund, and must be used solely for the purposes provided in sections 62 to 72, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 65. ~~[1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to chapter 645B or 645E of NRS, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to chapter 645B or 645E of NRS, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than \$25,000 per judgment. The liability of the~~

~~Fund does not exceed \$100,000 for any person licensed pursuant to chapter 645B or 645E of NRS, whether he is licensed as a limited liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.~~

~~2.—A person who is licensed pursuant to chapter 645B or 645E of NRS may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.~~

~~3.—A copy of the:~~

~~(a) Petition;~~

~~(b) Judgment;~~

~~(c) Complaint upon which the judgment was entered; and~~

~~(d) Writ of execution which was returned unsatisfied;~~

~~→ must be served upon the Commissioner and the judgment debtor and affidavits of service must be filed with the court.~~

~~4.—Upon the hearing on the petition, the petitioner must show that:~~

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

~~(b) He has complied with all the requirements of sections 62 to 72, inclusive, of this act.~~

~~(c) He has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to chapter 645B or 645E of NRS.~~

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

~~(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.~~

~~(f) He has made reasonable efforts to recover damages from each and every judgment debtor.~~

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

Sec. 66. ~~[1.—Whenever the court proceeds upon a petition as provided in section 65 of this act, the Commissioner may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his own behalf.~~

~~2.— Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of sections 62 to 72, inclusive, of this act.~~

~~3.— The Commissioner may, subject to court approval, compromise a claim based upon the application of a petitioner. He shall not be bound by any prior compromise of the judgment debtor.] (Deleted by amendment.)~~

Sec. 67. ~~[1.— If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of sections 62 to 72, inclusive, of this act, the court shall enter an order directed to the Commissioner requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in sections 62 to 72, inclusive, of this act.~~

~~2.— If a petitioner has recovered a portion of his claim from sources other than the Fund, the Commissioner shall deduct the amount recovered from the other sources from the amount payable upon the claim.] (Deleted by amendment.)~~

Sec. 68. ~~[If the Commissioner pays from the Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, his license issued pursuant to chapter 645B or 645E of NRS must be automatically suspended upon the effective date of an order by the court authorizing payment from the Fund. The license may not be reinstated, and no other license may be granted to him pursuant to chapter 645B or 645E of NRS until he has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner, and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.] (Deleted by amendment.)~~

Sec. 69. ~~[1.— Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.~~

~~2.— The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.~~

~~3.— Upon petition of the Commissioner, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.~~

~~4.— If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Commissioner shall, when sufficient money~~

~~has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to sections 68 and 70 of this act must be deposited in the State Treasury for credit to the account for education and research in the Fund.] (Deleted by amendment.)~~

Sec. 70. ~~[When the Commissioner has paid from the Fund any money to the judgment creditor, the Commissioner is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Commissioner on the judgment must be deposited in the State Treasury for credit to the Fund.] (Deleted by amendment.)~~

Sec. 71. ~~[The failure of a person to comply with any of the provisions of sections 62 to 72, inclusive, of this act shall constitute a waiver of any rights hereunder.] (Deleted by amendment.)~~

Sec. 72. ~~[Nothing contained in sections 62 to 72, inclusive, of this act limits the authority of the Division to take disciplinary action against a licensee for a violation of any of the provisions of chapter 645B or 645E of NRS, or of the rules and regulations of the Division, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 645B or 645E or the rules and regulations promulgated thereunder.] (Deleted by amendment.)~~

Sec. 73. "Nationwide Mortgage Licensing System and Registry" or "Registry" have the meanings ascribed to them in section 2 of this act.

Sec. 74. ~~["Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.] (Deleted by amendment.)~~

Sec. 75. ~~[To carry out the requirements for the licensing of residential mortgage loan originators in chapter 645B of NRS, the Commissioner shall participate in the Nationwide Mortgage Licensing System and Registry.] (Deleted by amendment.)~~

Sec. 75.3. The Commissioner shall adopt such regulations as necessary to comply with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Sec. 75.7. The Commissioner shall adopt regulations:

1. Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in section 6 of this act; or

2. Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B or 645E of NRS to be deposited in a mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.

Sec. 76. 1. The Commissioner shall ~~+~~

~~1. Report regularly.]~~ adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of ~~sections 8 to 18, inclusive, of this act,~~ the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

~~{2. Establish by regulation a}~~

(b) A process whereby ~~residential mortgage loan originators~~ a person may challenge information reported to the Registry by the Commissioner.

Sec. 77. 1. Except as otherwise provided in section 1512 of Public Law 110-289, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.

2. ~~{For the purpose of carrying out the provisions of subsection 1, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.~~

~~{3.}~~ Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

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

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

~~{4.}~~ 3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against, ~~residential mortgage loan originators included in the Registry for access by the public.~~

Sec. 77.5. For the purpose of carrying out the provisions of section 77 of this act, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.

Sec. 78. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.060, inclusive, *and* ~~sections 73 and 74~~ **section 73 of this act** have the meanings ascribed to them in those sections.

Sec. 79. ~~[NRS 645F.160 is hereby amended to read as follows:~~

~~645F.160 The Commissioner shall not, either directly or indirectly, be interested in any escrow agency, mortgage broker [or], residential mortgage loan originator or mortgage banker to which chapters 645A, 645B and 645E of NRS apply, nor engage in business as a personal loan broker.] (Deleted by amendment.)~~

Sec. 80. ~~[NRS 645F.180 is hereby amended to read as follows:~~

~~645F.180 1. The Commissioner may appoint deputy commissioners of mortgage lending, examiners, assistants, clerks, stenographers and other employees necessary to assist him in the performance of his duties pursuant to this chapter, chapters 645A, 645B and 645E of NRS or any other law. These employees shall perform such duties as are assigned to them by the Commissioner.~~

~~2. The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers, residential mortgage loan originators and mortgage bankers. The Commissioner shall levy an assessment upon each licensed escrow agency, mortgage broker, residential mortgage loan originator and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.~~

~~3. Assessments collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury for deposit to the Fund for Mortgage Lending created by NRS 645F.270 and accounted for separately. The Commissioner shall use the money for the purposes specified in subsection 2.] (Deleted by amendment.)~~

Sec. 81. ~~[NRS 645F.280 is hereby amended to read as follows:~~

~~645F.280 1. The Commissioner shall establish by regulation rates to be paid by escrow agencies, mortgage agents, mortgage brokers, residential mortgage loan originators and mortgage bankers for supervision and examinations by the Commissioner or the Division.~~

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

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

~~(d) Any other factors the Commissioner deems relevant.] (Deleted by amendment.)~~

Sec. 82. NRS 645F.290 is hereby amended to read as follows:

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

- (a) Escrow agency that is supervised pursuant to chapter 645A of NRS;
- (b) Mortgage broker that is supervised pursuant to chapter 645B of NRS;
- ~~and~~
- (c) ~~Residential mortgage loan originator that is supervised pursuant to chapter 645B of NRS;~~ **Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS; and**

(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

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

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

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

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

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

Sec. 83. ~~NRS 645F.380 is hereby amended to read as follows:~~

~~645F.380—The provisions of NRS 645F.300 to 645F.450, inclusive, do not apply to, and the terms “foreclosure consultant” and “foreclosure purchaser” do not include:~~

~~1.—An attorney at law rendering services in the performance of his duties as an attorney at law;~~

~~2.—A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;~~

~~3.—A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;~~

~~4.—A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;~~

~~5.—A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in~~

~~connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;~~

~~6. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;~~

~~7. A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker, **residential mortgage loan originator** or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, respectively, while acting under the authority of his license;~~

~~8. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or~~

~~9. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.] **(Deleted by amendment.)**~~

Sec. 84. [NRS 645F.450 is hereby amended to read as follows:

~~645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, **and sections 62 to 77, inclusive, of this act** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.] **(Deleted by amendment.)**~~

Sec. 84.5. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

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

(b) "Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 85. Notwithstanding the amendatory provisions of this act:

1. A person who holds a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a ~~residential mortgage loan originator,~~ **mortgage agent,** may continue his activities without obtaining a license as a ~~residential mortgage~~

~~loan originator.] mortgage agent until July 1, 2011, [and shall comply with the provisions of sections 2 to 18, inclusive, of this act not later than July 1, 2011.]~~

2. A person who does not hold a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a ~~[residential mortgage loan originator.] mortgage agent,~~ may continue his activities without obtaining a license as a ~~residential mortgage loan originator.] mortgage agent~~ until July 1, 2010, ~~[and shall comply with the provisions of sections 2 to 18, inclusive, of this act not later than July 1, 2010.]~~

Sec. 85.5. NRS 645B.455 of NRS is hereby repealed.

Sec. 86. ~~[1.]~~ This ~~[section and sections 1 to 61, inclusive, and 73 to 85, inclusive, of this] act [become] becomes~~ effective upon passage and approval for the purpose of adopting regulations and for licensure pursuant to section 85 of this act ~~[,]~~ and on October 1, 2009, for all other purposes.

~~[2.— Sections 62 to 72, inclusive, of this act become effective on October 1, 2009.~~

~~3.— Section 13 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

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

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

~~4.— Section 56 of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

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

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

TEXT OF REPEALED SECTION

645B.455 License issued on behalf of professional corporation or limited-liability company; limitations on license; automatic expiration of license.

1. Any natural person who meets the qualifications of a mortgage agent and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS, may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 378.

Bill read third time.

The following amendment was proposed by Assemblywoman Parnell:

Amendment No. 618.

AN ACT relating to education; requiring the Department of Education to develop a plan for early childhood education; ~~requiring~~ **authorizing** the Department to apply for money for certain prekindergarten programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Department of Education to adopt a plan for early childhood education for programs of prekindergarten education which are provided by a school district or charter school, or which are supported by public money.

Section 3 of this bill ~~further requires~~ **authorizes** the Department to apply for any available grants of money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to certain programs of prekindergarten education.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Department shall establish a plan for early childhood education in this State which sets forth the standards and guidelines for programs of prekindergarten education. The plan must be designed to promote the development and school readiness of children in prekindergarten education in this State and must include, without limitation, guidelines for:*

- (a) The physical well-being and motor development of children;***
- (b) The successful adjustment of children to a school environment;***
- (c) Suggested approaches to learning and methods for teaching children;***
- (d) The development of speech and language of children; and***
- (e) Providing general knowledge to children.***

2. *Each program of prekindergarten education in this State which is provided by a school district or charter school, or which operates, in whole or in part, using money from a public source must comply with the provisions of the plan developed by the Department pursuant to subsection 1.*

3. *The Department may:*

(a) Adopt, implement and provide training to educational personnel and other personnel who provide prekindergarten education to children in this State.

(b) Provide assistance to programs of prekindergarten education in this State to ensure the school readiness of children who attend prekindergarten.

4. *The Department shall, within the limits of money available for that purpose, grant money to programs of prekindergarten education which comply with the provisions of this section.*

5. *The Superintendent of Public Instruction shall prepare an annual report concerning the plan developed pursuant to subsection 1 and the programs of prekindergarten education conducted in this State, including, without limitation:*

(a) *Demographic information for children enrolled in such programs; and*

(b) *An analysis of the school readiness of children who complete a program of prekindergarten education.*

6. *The Superintendent of Public Instruction shall submit the report prepared pursuant to subsection 5 on or before February 1 of each:*

(a) *Odd-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.*

(b) *Even-numbered year to the Legislative Committee on Education.*

7. *Nothing in this section requires:*

(a) *A school district, charter school or the Department to provide a program of prekindergarten education; or*

(b) *A parent or legal guardian of a child to enroll the child in a program of prekindergarten education.*

8. *As used in this section, "school readiness" means the ability of a child to enter kindergarten with an appropriate level of skills, knowledge and maturity to successfully participate in kindergarten.*

Sec. 2. NRS 392.375 is hereby amended to read as follows:

392.375 1. At least twice each school year, a school district shall require all the pupils in the school district who ride a school bus to practice the evacuation of a school bus for a purpose other than a crisis governed by NRS 392.600 to 392.656, inclusive, and to receive instruction in the responsibility of a passenger of a school bus to use the emergency exit doors on the bus during such an evacuation.

2. Each school district shall adopt a safety program which does not concern a crisis governed by NRS 392.600 to 392.656, inclusive, and which includes, without limitation:

(a) The procedure for pupils to safely enter and exit a school bus, including entering and exiting with a driver of a school bus as an escort;

(b) Proper behavior and conduct of pupils while in areas around a school bus where a high risk of danger to pupils exists, including the area that is used to load and unload school buses;

(c) Behavior and conduct of pupils while on a school bus that will enhance the safety of the pupils;

(d) Evacuation of pupils from a school bus; and

(e) The location of emergency equipment on a school bus.

↪ At least annually, a school district shall require all pupils who are enrolled in preschool, ***prekindergarten***, kindergarten and in grades 1 to 4, inclusive, in the school district who ride a school bus to participate in the safety program created pursuant to this section.

3. If a parent or legal guardian enrolls his child in preschool, *prekindergarten*, kindergarten or grades 1 to 6, inclusive, and the child will be riding a school bus for the first time, the school shall provide the parent or legal guardian, upon enrollment, with written information concerning the safety of pupils on a school bus. The information must include, without limitation:

(a) A description of each location that is designated to load and unload a school bus which is in geographical proximity to the pupil's residence;

(b) Rules of conduct for pupils on a school bus and at an area that is designated for pupils to enter and exit a school bus;

(c) Instructions for the operation of a motor vehicle:

(1) At school crossing zones and in areas that are designated to load and unload a school bus; and

(2) When a driver of a school bus operates a system of flashing red lights;

(d) A description of the area around a school bus that poses a high risk of danger to pupils and other pedestrians; and

(e) Behavior and conduct for pupils who walk to and from an area that is designated for pupils to enter and exit a school bus that will enhance the safety of the pupils.

4. The board of trustees of each school district shall adopt regulations regarding practices conducted pursuant to subsection 1 and participation in safety programs required by subsection 2, including the requirement of such practices and participation in such programs at the beginning of any field trip by school bus.

Sec. 3. 1. The Department ~~shall~~ of Education may apply for any available grants of money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act.

2. Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive School Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act, the money must be deposited in the State Distributive School Account and accounted for separately.

Sec. 4. 1. This section and section 3 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2009, for purposes of developing a plan for early childhood education and on July 1, 2010, for all other purposes.

3. Section 2 of this act becomes effective on July 1, 2010.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 64.

Bill read third time.

Remarks by Assemblyman Hardy.

Conflict of interest declared by Assemblywomen Dondero Loop and Leslie.

Roll call on Assembly Bill No. 64:

YEAS—36.

NAYS—Cobb, Goedhart, Gustavson, Settlemeyer—4.

NOT VOTING—Dondero Loop, Leslie—2.

Assembly Bill No. 64 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 254.

Bill read third time.

Remarks by Assemblymen Denis, Gansert, and Cobb.

Roll call on Assembly Bill No. 254:

YEAS—36.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur—6.

Assembly Bill No. 254 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 543.

Bill read third time.

Roll call on Assembly Bill No. 543:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, McArthur, Settlemeyer—5.

Assembly Bill No. 543 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 546.

Bill read third time.

Remarks by Assemblymen Conklin and Gansert.

Roll call on Assembly Bill No. 546:

YEAS—42.

NAYS—None.

Assembly Bill No. 546 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 547.

Bill read third time.

Roll call on Assembly Bill No. 547:

YEAS—42.

NAYS—None.

Assembly Bill No. 547 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 552.

Bill read third time.

Roll call on Assembly Bill No. 552:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settlemeyer—7.

NOT VOTING—Carpenter.

Assembly Bill No. 552 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 557.

Bill read third time.

Remarks by Assemblyman Grady.

Roll call on Assembly Bill No. 557:

YEAS—42.

NAYS—None.

Assembly Bill No. 557 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 531 just returned from the printer, be declared an emergency measure under the *Constitution* and placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 531.

Bill read third time.

Roll call on Assembly Bill No. 531:

YEAS—42.

NAYS—None.

Assembly Bill No. 531 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 6.

Bill read third time.

Roll call on Senate Bill No. 6:

YEAS—42.

NAYS—None.

Senate Bill No. 6 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 9.

Bill read third time.

Remarks by Assemblyman Kihuen.

Roll call on Senate Bill No. 9:

YEAS—42.

NAYS—None.

Senate Bill No. 9 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 62.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 62:

YEAS—42.

NAYS—None.

Senate Bill No. 62 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 72.

Bill read third time.

Roll call on Senate Bill No. 72:

YEAS—42.

NAYS—None.

Senate Bill No. 72 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 127.

Bill read third time.

Roll call on Senate Bill No. 127:

YEAS—42.

NAYS—None.

Senate Bill No. 127 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 151.

Bill read third time.

Roll call on Senate Bill No. 151:

YEAS—42.

NAYS—None.

Senate Bill No. 151 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 185.

Bill read third time.

Roll call on Senate Bill No. 185:

YEAS—29.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settlemeyer, Stewart—13.

Senate Bill No. 185 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 193.

Bill read third time.

Roll call on Senate Bill No. 193:

YEAS—42.

NAYS—None.

Senate Bill No. 193 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 194.

Bill read third time.

Remarks by Assemblymen Hambrick, Anderson, and Segerblom.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 194:

YEAS—42.

NAYS—None.

Senate Bill No. 194 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 219.

Bill read third time.

Remarks by Assemblyman Hogan.

Roll call on Senate Bill No. 219:

YEAS—42.

NAYS—None.

Senate Bill No. 219 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 231.

Bill read third time.

Remarks by Assemblymen Spiegel, Horne, and Smith.

Roll call on Senate Bill No. 231:

YEAS—42.

NAYS—None.

Senate Bill No. 231 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 65, 148, 497, and 523.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 65.

Bill read third time.

Conflict of interest declared by Assemblywomen Buckley and Dondero Loop.

Roll call on Assembly Bill No. 65:

YEAS—33.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settlemeyer—7.

NOT VOTING—Buckley, Dondero Loop—2.

Assembly Bill No. 65 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 148.

Bill read third time.

Remarks by Assemblymen Ocegüera, Goicoechea, Claborn, Goedhart, Smith, and Grady.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 148:

YEAS—39.

NAYS—Cobb, Goedhart, Gustavson—3.

Assembly Bill No. 148 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 497.

Bill read third time.

Roll call on Assembly Bill No. 497:

YEAS—42.

NAYS—None.

Assembly Bill No. 497 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 523.

Bill read third time.

Roll call on Assembly Bill No. 523:

YEAS—41.

NAYS—None.

NOT VOTING—Arberry.

Assembly Bill No. 523 having received a two-thirds majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 238.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Senate Bill No. 238:

YEAS—42.

NAYS—None.

Senate Bill No. 238 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 244.

Bill read third time.

Remarks by Assemblyman Cobb.

Roll call on Senate Bill No. 244:

YEAS—42.

NAYS—None.

Senate Bill No. 244 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 247.

Bill read third time.

Remarks by Assemblymen Christensen and Gansert.

Madam Speaker requested the privilege of the Chair for the purpose of
making remarks.

Roll call on Senate Bill No. 247:

YEAS—42.

NAYS—None.

Senate Bill No. 247 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 251.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Senate Bill No. 251:

YEAS—42.

NAYS—None.

Senate Bill No. 251 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 254.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 254:

YEAS—42.

NAYS—None.

Senate Bill No. 254 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 263 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 278.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 278:

YEAS—42.

NAYS—None.

Senate Bill No. 278 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 Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 287:

YEAS—42.

NAYS—None.

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.

Roll call on Senate Bill No. 288:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settlemeyer, Stewart—8.

Senate Bill No. 288 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 298.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 298:

YEAS—42.

NAYS—None.

Senate Bill No. 298 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 302.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 302:

YEAS—42.

NAYS—None.

Senate Bill No. 302 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 Bobzien.

Conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 317:

YEAS—40.

NAYS—Smith.

NOT VOTING—Dondero Loop.

Senate Bill No. 317 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 319.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 319:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick,
Hardy, McArthur, Settlemeyer, Stewart, Woodbury—13.

Senate Bill No. 319 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 325.

Bill read third time.

Roll call on Senate Bill No. 325:

YEAS—42.

NAYS—None.

Senate Bill No. 325 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bills Nos. 137, 175, 186, 218, 222, 263, 333, 339, 340, 360, 377, 414; Senate Joint Resolutions Nos. 1, 2, 3, 4, 9; Senate Joint Resolution No. 2 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

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 6:01 p.m.

ASSEMBLY IN SESSION

At 9:39 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 305, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 18, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 371, 423, 424, 425.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 234, 318, 382, 415, 416.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 234.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 318.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 371.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 382.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 415.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 416.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 423.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 424.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 425.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

REMARKS FROM THE FLOOR

Assemblywoman Buckley requested that the following proclamation be entered in the Journal.

PROCLAMATION OF THE NEVADA STATE ASSEMBLY

WHEREAS, In Nevada, some individuals experience personal struggles that involve issues of substance abuse that lead to encounters with the judicial system requiring the expertise of specialty court programs, such as drug courts, to provide the guidance necessary for participants to succeed in reorganizing their lives; and

WHEREAS, Since the first drug court was created in Miami, Florida, in 1989, over 2,300 drug courts have been established across the United States with a mission to restore lives, reunite families, and make communities safer by reducing drug usage and crime; and

WHEREAS, In 1992, Nevada's judicial system and Judge Jack Lehman established the State's first drug court program in Clark County, the fifth drug court in the nation, to provide eligible nonviolent substance abusing offenders an alternative to incarceration, and Judge Peter I. Breen soon thereafter established a drug court in Washoe County in 1995; and

WHEREAS, With the success of the initial programs, drug courts now serve all regions of Nevada, helping participants become productive members of society by providing judicial supervision, case management, supervised drug treatment, and mandatory drug testing while holding participants accountable for their behavior; and

WHEREAS, Success of the treatment program is measured by completing the program and by reducing prison populations, decreasing recidivism rates, giving individuals confidence in making positive decisions to change their lives, and giving babies a chance to be born drug-free; and

WHEREAS, Over the last three biennia, Nevada's specialty court programs, including drug courts, graduated 4,499 participants who could have otherwise been sentenced to prison, and witnessed the birth of 388 drug-free babies which substantially reduced the unanticipated health care costs associated with drug-exposed babies; and

WHEREAS, Life is precious to us all, and during May 2009, Nevada's drug courts recognize the individual struggles that each participant overcomes by celebrating the birth of the 500th drug-free baby in Clark County whose first name, Blessed, represents a personal resolve to begin anew; and

WHEREAS, The successful operation of specialty courts, including drug courts, requires the participation of many professionals, including counselors, program coordinators, correctional officers, and the supervising judges representing the judicial, municipal, and justice courts: Judge Archie E. Blake, Judge John Tatro, Judge Jackie Glass, Judge Andrew J. Puccinelli, Judge David I. Nielsen, Judge Jennifer Elliott, Judge Barbara S. McCarthy, Judge Douglas E. Smith, Judge John S. McGroarty (Retired), Judge Ann E. Zimmerman, Judge Robert W. Lane, Judge William O. Voy, Judge Larry G. Sage (Retired), Judge Cynthia Diane Steele, Judge James Van Winkle, Judge Frank P. Sullivan, Judge Hal Albright, Judge Richard Wagner, Judge Mike Memeo, Judge John M. Iroz (Retired), Judge Kathy A. Hardcastle, Judge Max W. Bunch, Judge Ken Howard, Judge Steven Dobrescu, Judge Cedric A. Kerns, Judge George Assad, Judge Douglas Hedger, Judge Charles McGee (Retired), Judge Tony Abbatangelo, Judge Nancy C. Oesterle, Judge Cynthia S. Leung, and Judge Michael Montero; and

WHEREAS, The State of Nevada especially recognizes Assemblyman Bernie Anderson, whose tireless efforts over the years in the Assembly Committee on Judiciary helped create and fund the specialty court programs that have given a second chance to so many; now, therefore, be it

PROCLAIMED, That the State of Nevada acknowledges the 20-year anniversary of establishing drug courts in the nation and recognizes the positive effects of our state's drug courts in helping individuals overcome difficult challenges to living drug-free lives in Nevada during National Drug Court Recognition Month.

DATED this 18th day of May, 2009.

BARBARA E. BUCKLEY
Speaker of the Assembly

Assemblywoman Buckley requested that her remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you very much, Majority Leader Ocegüera. I am pleased to stand today in support of this proclamation. What an incredible milestone and what a Nevada achievement, to recognize that there is a better way of dealing with drug addiction and a better way to create an opportunity for people to face their addictions and remove themselves from the criminal courts in a positive manner. Drug courts save the state money, but more importantly, they save people's lives. It is such an incredible milestone to reach 20 years in Nevada's drug court experience and to have

our drug courts be a model for the rest of the nation. They serve as a way to show that you can do things better if you take the time to reinvent them and to study them.

I am so pleased to have with me today some of the architects of our Nevada effort. With me is Judge Breen, who I will ask to stand and be recognized. Also here are our justices of the Nevada Supreme Court: Chief Justice Jim Hardesty, Justice Mark Gibbons, Justice Mike Cherry, and Justice Nancy Saitta. I also am very pleased to have with me Deanna Ford and her baby, Blessed, who is the 500th drug-free baby born in Clark County. I am also very pleased to have here Darlene Dufault, with the Choices program, one of our many partners in the drug court program. And, of course, we have our own chairman of the Judiciary Committee, who will please rise.

Please join me in thanking these individuals for all the efforts they have made, along with their colleagues, to change the face of Nevada when it comes to the drug courts and dealing with drugs. We thank you. We appreciate you. You are a tribute to Nevada.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 76, 79, 121, 139, 236, 389, 410, 415, 486, 510; Assembly Concurrent Resolution No. 19; Senate Bills Nos. 201, 207, 256.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Keith Lockard and Jan Lockard .

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Ryan Hardy, Cara Hardy and Lynn Kerr.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Daniel Sussman.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Nate Mack Elementary School: Donovan Cardinelli, Victoria Fontanelli-Burgos, Desire Gallegos, Madison Gorton, Peyton Halbakken-Wohlman, Lillian Lederer, William Daniel Ledesma, Gabriella Martinez, Brianna Miller, John Miller, Madison Nelson, Michael Parlak, Alexander Rosa, Samantha Schiers, David Trotta, Vanessa Villalobos, Eunice Yi, Emma Letourneau, Gabriella Costa, Sophia Costa, Joey Kneale, Daniel Kneale, Kavantae Simons Kyla Creps, Ria Galang, Tiah Bailey, Emily Flowers, Shannon Stratman, Maya Garcia, Brooke Haney, Autumn Beltran, Ann Gilbert, Evan Bell, Trent McCord, Perseea Ghafouria, Olivia Denué, Erika Spiker, Farrah Hayden, Tyler Brunty, Chris Gjersing, Jordan Walker, Jordan Burns, Carlee Snell, Skyler Willis, Patrica Keene, Taylor Scruggs, Matthew Candelaria, Joseph Cupp, Thai Laury, Irie Douville, Sofia Aldaco, Travis Crawford, Nicholas Glazier, Roman Soto, and Mya Lofton; chaperones Maisabel Burgos Fontanelli, Michele Gorton, Brenda Halbakken-Wohlman, Edgar Martinez, Allison Bredlau, Barbara Kneale, Barbara Creps, Olga

Guerrero, Maryellen Stratman, Yolanda Garcia, Lora Haney, Betty Beltran, Vicky Smith, Virginia Ghafouria, Laura Denué, Timothy Brunty, Melissa Snell, John Candelaria, Rosemary Douville, Laurie Keene, Rakisha Langaricia, Steven Crawford, Janette Rozgay-Miller, Nancy Hutchins, and Nancy Heavey.

Assemblyman Ocegüera moved that the Assembly adjourn until Tuesday, May 19, 2009, at 10 a.m.

Motion carried.

Assembly adjourned at 9:46 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly