

THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 21, 2009

Assembly called to order at 11:37 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Proverbs 3:5-8:

Trust in the Lord with all your heart, and lean not on your own understanding. In all your ways, acknowledge Him, and He shall direct your paths. Do not be wise in your own eyes. Fear the Lord and depart from evil. It will be health to your flesh and strength to your bones.

Let us pray:

Lord God, You are above all things. You are the fountain of all goodness for mankind. Therefore, we pray this day for the days remaining in this Session that You would be an overflow of strength and wisdom through us, to complete the tasks before us. May our endeavor always be not to live independent of Thee, but to lean on Thee. Lord Jesus, by Your Spirit, please be our moorings that we would not drift unawares from Thy ways.

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 Commerce and Labor, to which was referred Senate Bill No. 119, 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 was referred Senate Bill No. 416, 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. 451, 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. 394, 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 20, 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. 124, 165, 446, 530, 531.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 13, Amendment No. 803; Assembly Bill No. 15, Amendment No. 774; Assembly Bill No. 84, Amendment No. 773; Assembly Bill No. 88, Amendment No. 690; Assembly Bill No. 101, Amendments Nos. 701, 847; Assembly Bill No. 186, Amendment No. 640; Assembly Bill No. 205, Amendment No. 821; Assembly Bill No. 296, Amendment No. 759; Assembly Bill No. 335, Amendment No. 845; Assembly Bill No. 361, Amendment No. 655; Assembly Bill No. 370, Amendment No. 598; Assembly Bill No. 492, Amendment No. 822, 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 passed, as amended, Senate Bill No. 421.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 633 to Senate Bill No. 100.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 624 to Senate Bill No. 35; Assembly Amendment No. 625 to Senate Bill No. 101.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 109.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 243, Amendment No. 628; Assembly Bill No. 458, Amendment No. 883, 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. 825 to Senate Bill No. 162; Assembly Amendment No. 623 to Senate Bill No. 276.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 776 to Senate Bill No. 26; Assembly Amendment No. 732 to Senate Bill No. 128; Assembly Amendment No. 717 to Senate Bill No. 195; Assembly Amendment No. 781 to Senate Bill No. 228; Assembly Amendment No. 676 to Senate Bill No. 231; Assembly Amendment No. 677 to Senate Bill No. 278; Assembly Amendment No. 605 to Senate Bill No. 317; Assembly Amendment No. 618 to Senate Bill No. 378.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 746 to Senate Bill No. 17.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Copening and Wiener as a Conference Committee concerning Senate Bill No. 45.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 11—Amending Assembly Standing Rule Nos. 68 and 115 for the 75th Session of the Legislature to allow the Assembly to

vote on a motion to reconsider the vote on a bill or resolution on the same day the motion is made.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That Rule Nos. 68 and 115 of the Standing Rules of the Assembly as adopted by the 75th Session of the Legislature are hereby amended to read as follows:

Rule No. 68. To Reconsider—Precedence of.

1. A motion to reconsider shall have precedence over every other motion, *including a motion to adjourn if the motion is to reconsider a final vote on a bill or resolution. A motion to reconsider a final vote on a bill or resolution shall be in order only on the day on which the final vote is taken and the vote on such a motion to reconsider must be taken on the same day.*

2. *If the motion to reconsider is for any other action, the motion has precedence over every other motion*, except a motion to adjourn, or to fix the time to which to adjourn; and when the Assembly adjourns, while a motion to reconsider is pending, or before passing the order of business of Motions, Resolutions and Notices, the right to move a reconsideration shall continue to the next day of sitting. ~~[No notice of reconsideration of any final vote shall be in order on the:~~

- ~~1. Last day on which final action is allowed; or~~
- ~~2. Day preceding the last day of the session.]~~

Rule No. 115. Reconsideration of Vote on Bill.

~~[On the first legislative day that the Assembly is in session succeeding that on which a final vote on any bill or resolution has been taken, a] A vote may be reconsidered on the motion of any member. [Notice of intention to move such reconsideration must be given on the day on which the final vote was taken by a member voting with the prevailing party. It is not in order for any member to move a reconsideration on the day on which the final vote was taken, except by a majority of the members elected. There may be no reconsideration of a vote on a motion to indefinitely postpone.] Motions to reconsider a vote upon amendments to any pending question and upon a final vote on a bill or resolution may be made at once.~~

Assemblyman Ocegüera moved the adoption of the resolution.

Remarks by Assemblyman Ocegüera.

Resolution adopted.

NOTICE OF EXEMPTION

May 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 433.

GARY GHIGGERI
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 421.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 562.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bill No. 562 be declared an emergency measure under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 562.

Bill read third time.

Remarks by Assemblymen Arberry, Cobb, Smith, Gansert, McClain, Hardy, Goedhart, Denis, Leslie, Christensen, and Madam Speaker.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Speaker. Assembly Bill 562 is the General Appropriation Act. The General Appropriation Act is the salary bill, the school funding bill, and the capital improvement bill—all are the final results of a long deliberation between the Assembly Committee on Ways and Means and the Senate Committee on Finance. The General Appropriation Act and other appropriation bills considered throughout the session deliberated the amount of the General Fund support approved by the money committees for the operation of Nevada State Government for the 2007 and 2009 biennium. The General Fund appropriation includes the General Appropriation Act, totaling about \$3.88 billion over the next two years for the 2009-2011 biennium. There is a reduction of approximately \$425 million when compared to the general fund appropriation approved by the 2007 legislature for the 2007–2009 biennium. That also includes the highway funds appropriation totaling \$118 million dollars in Fiscal Year 2010 and \$115 million in Fiscal Year 2011.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to Assembly Bill 562. I appreciate the hard work of the committee—no disrespect to you. I just believe that we had a balanced budget that we had to consider and I would prefer not spending as much money as we are looking to spend in this appropriations bill. I think a lot of people are cutting back at home, losing jobs, plus we have double digit unemployment. We have businesses that are having a tough time affording to keep people on the payroll. If you are going to vote in favor of this, you have to be responsible enough to vote in favor of taxes that gets you to that number. I think now is not the time to be expanding government. I think that maintenance is fine and covering the essential services is fine, but expanding government is too much for our private citizens and taxpayers to have to afford during this down economy. I respectfully disagree with the committee and will not be voting for this bill.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of Assembly Bill 562. We heard the discussion yesterday about the education budget, so we know the details of that. I would like to commend my colleagues who sat on the joint budget committees. It has been a long arduous task going through the budgets and hearing the realities of what we were faced with. We made some great strides in the education budget but we also did a lot of cutting. When you look at the major areas that we funded, between salaries and services, which go directly to the classroom, we still cut over 50 percent of that budget. It is devastating. And yet this budget does restore some essential services and helps keep the school districts whole and able to do what they need to do in the classroom.

Our colleagues, the people we work with every day and entrust to sit on these committees, just as we look to our colleagues in the morning policy committees, have listened to testimony for hour upon hour and made very tough decisions to try to trim these budgets, and in many ways, slash these budgets to come to a conclusion about how we could do justice to serve our

constituents and make sure that we are providing the essential services to take care of the citizens of this state. In the education arena we had to deal with possibly closing a campus. How do you think about that in the realm of what we are faced with in this state? You can't move forward when you don't have a strong education system. You can't have strong economic development when you don't have a good education system. Our colleagues did, in my mind, yeoman's work listening to these budgets day after day and making sure that we seriously evaluated every decision we made. We listened to more constituents than we have ever listened to in person during my time here. We all know that we had a packed house many times over, with people coming to tell us how they felt about the budgets we were considering and the cuts we were faced with. These budgets are cut and I think we can rest assured that we have restored essential services and we have done what we needed to do in this state to try and preserve our education system for both K-12 and higher education.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Speaker. I rise not to defend or make excuses for all the hard work that the two committees did who worked on this particular measure. The session started as a high-speed session. You might want to use the example of a high-speed car. The government says you need to drive 55 mph. These two committees worked at a speed of 190 mph. They had to make decisions on the run and none of these decisions were based on any fluff. I looked at this situation, when this Legislature and this body came together, and thought it was going to be Armageddon. When you were elected to this body this was going to be the hardest and toughest decisions that you will ever have to make dealing with the State of Nevada. The State of Nevada will fall if this body does not make the right decisions. We will fail. We will go back to the 1800s and we no longer live in the 1800s. We are now facing an economy that has failed throughout the country. You have to step up to the plate sometimes, and sometimes when your heart is pumping blood, sometime it's pumping Kool-Aid, and at this time you have to stand up to be the man and the woman, to say that your heart is pumping blood.

We need your support for this because if this fails you don't fail, everyone fails. Our constituency is looking at us and wondering what have we been doing for 120 days? It comes down to this final mark and the final crossing. You have to step up and make a decision to support this, because if you do not, when you go home and face your constituency, you could say, "We cut it—we cut it." You cut every session and as a Democrat I have cut many budgets over the years to make sure that we do the right thing. Now you have to really do the right thing. If you can't face the music in here, you shouldn't be here. This is a tough decision. Every session it has always been easy. We have always had money and we can flow, but the decisions we make today are very critical. Understand that when you look at the hard work the money committee has done, it is still down to your final vote.

We bring you a package that has no fluff and there is no extra nothing in this budget. We took the bare bones and we crawled and we crawled and we did what we could do to keep everyone taken care of and feed the families, feed the businesses so the people can provide something to the businesses to get us all on our feet for the next two years. We do not like everything we put in here. It was across the line. So Body, I beg of you, you have to make a decision today and that is to vote in a positive way because if you don't and this fails, you will fail and you will have to face your constituency.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in support of Assembly Bill 562. I have been on the money committee now for a third session and I know how we have the different divisions come in and we asked them about their cuts and whatever they had we asked them to cut more and more. It was a very difficult and long process. I also know that we did add back about 1 percent to make sure that we provided services for children with autism and to make sure that we could keep the rural mental health clinics open, and to make sure there was a little more funding for education. A part of the budget that I could not defend or support was the 36 percent cut to higher education. I am a Nevadan, my family and children are from Nevada and I cannot imagine not having a University of Nevada or University of Nevada Las Vegas. We would really have had to shut down an institution at that amount or a portion of institutions or the medical school.

If you think about what we need in the state, we need healthcare providers. We need a well educated workforce. I have always told my children that education is opportunity and if we take away education we are taking away opportunity. In this budget we did add back quite a bit of money for PEBS. There was a SAGE Commission recommendation that we should really change how that works for some of the retirees and employees. I did not agree with the entire add-back. I am on the record continually opposing that because I think we could have probably saved a little bit of money there. In the scheme of things, everything else that we did I don't know that we could have done it any differently. So I do support that.

We go through these budgets and we try to decide what to spend. What are the essential services? Do we need to fund education? Then we have to come up with how we are going to pay for it. The problem my caucus had, at least some of us, was agreeing how to appropriate more funds. How are we going to pay for this? I know we are not in agreement on that. We have looked at a bump in sales tax and we have people who would be okay with bumping the sales tax, which would cover pretty much all of this. I know being on record supporting this appropriation makes us responsible for funding it, but I don't know we agree with the funding mechanism, and again, because of the way this process moves, I just want everyone to know how hard we did work on this and how important a lot of these add-ons are. However, I can not participate in a 36 percent cut to higher education. We did leave a 12.5 percent cut, so it is not as if there hasn't been a huge cut. There have been a lot of major, major cuts, even in cultural affairs, those people are down to working 32 hours. I think this is bare bones. I do support it, but because of this process I am not sure whether we will be supporting the revenue side of it. Again, it is kind of the nature of the beast.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Speaker. I rise in support of Assembly Bill 562. I just would like to explain how this budget came to us. It did not come as a balanced budget. It may have looked like one on paper but the draconian cuts that were included in it were beyond belief. For the first time in my history here we had to basically rebuild this budget. I chaired the subcommittee on public safety. I'll give you an example. The budget came over and it included \$208 million for a new prison to be built, but yet it wanted to cut out NSP in Carson City here and layoff 200 Carson City residents. It wanted to close a rural conservation camp in Tonopah, the only fire safety people we have in the rural parts of central Nevada. It would have changed it and opened a new prison camp in Indian Springs, which is three hours from the fire danger areas. So we restored the camps, we restored the NSP, we said no to the new prison. Fortunately, when the numbers for inmate population came in they were a little bit lower this time so that helped save some money. The public safety budgets are bare bones as well. One of the other things was the budget recommended merging the narcotics unit with investigations. This would have basically diluted all the narcotics units' efforts in rural Nevada. We did not look at rural versus southern or urban, but it was for the safety for all the residents in our state. The merger proposal for POST training and investigations—every sheriff and law enforcement officer in the state agreed that it was a very bad idea. We just split them a few sessions ago for efficiency. Whatever we did we had the thought of safety for our residents in mind. We still cut public safety as much as we could without cutting the safety to our public. I urge you to support this bill.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker, I rise in support of AB 562. I have personally appreciated the bipartisan support and the bipartisan scrutiny of a virtually zero-based budgeting that went into this process. I think if we look at this body and recognize that when talk about "across the aisle support," there isn't any "across the aisle support" in this body because we are next to each other and we work together. We don't have a split house. We have a committee that literally works together. The Committee on Finance, if I may allude to them, and the Committee on Ways and Means have jointly worked together in a very bipartisan way. My constituents have told me that they want people to work together and they are tired of people fighting. This is a time where we have had to come together to build a budget with zero-based budgeting.

Furthermore, I have appreciated the SAGE commission, and, if I so risk, I have appreciated the Governor and the Governor's staff. Without a foundation, without something to build from, we would not be able to build upon. The Governor, bless his heart, has chosen to build a budget

and to balance that budget however he and his administration have been able to. That gave us a framework to build upon, or to take away from, because we haven't agreed all the time. But as I have sat in those budget meetings and heard testimony and listened to what we would be doing or what we wouldn't be doing, I suspect that it was well over 90 percent of the time that we had this common phrase of "I move, gov rec". What that meant was that we agreed with the Governor and his recommendation, and that's what the motion was. When we started looking at all the different scenarios and all the different choices, we said that we were going to go with what the Governor recommended. However low that may have been or however high it may have been for others, it was the foundation on which we built.

I stand in support of AB 562 because it was built in a literal bipartisan way with people who were considerate of the needs of the state, such as education, health, public safety and transportation, so that we could keep this state moving forward and keep the hope that little children have and that their parents want them to have. That's why I'm standing in support of this.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I also rise to give a lot of credit to the bipartisan efforts between all of the members of this body. However, I noticed that going into this session we all knew that we were going to be faced with a budget shortfall. What we have so often heard has been the expression, "either we have to raise taxes or cut services". Because of that, we came to this session with quite a few bill drafts that may not have been perfect, but we were hoping that they would get a hearing. There were ideas about different kinds of education reforms, about benefit eligibility, and about emergency suspension of prevailing wages. We had quite a few bills that we figured could have saved literally hundreds of millions of dollars. Unfortunately, many of those bills were not even allowed a hearing. I feel that we may have shortchanged our taxpayers, our citizens, by not allowing those bills for hearing and by not working on two different paths of working collaboratively and cooperatively, but also by looking for ways to get more done with the same amount of money.

Because of that, I feel that we have given our members here an impossible choice of either cutting services or raising taxes. I don't think that we did all of our taxpayers and all of our citizens quite the proper measure.

ASSEMBLYMAN DENIS:

Thank you, Madam Speaker. I'm going to try not to repeat what others have said. I chaired the Subcommittee on General Government and this particular committee considered some of the things that are most important to me in my life, and I wanted to share just a few examples. We talked about museums. Some of the recommendations were to close down the Nevada Historical Society in Reno, the East Ely Railroad in Ely, and the Comstock History Center. In the testimony that we received, the East Ely Railroad provides 3 million dollars in economic support to Ely. There was a recommendation to cut that. For me the important part is that we provide opportunities. I know many people say that museums aren't that important and so we can cut those because they don't provide much, but I think that one of the reasons that I am here is because of those opportunities that I had when I was growing up. I couldn't fathom making that cut, and in our committee it was very heart wrenching to hear the stories of what would happen if we cut all of those museums.

Cuts that we did make were cutting back the work week for the directors to 32 hours a week and the curators to 32 hours a week. We've already lost two of our curators who had a knowledge that we can't get back. We've got another one who is interviewing somewhere else. We have the possibility of losing all of our institutional knowledge in our museums because of all our cutting.

We had a recommendation to eliminate the Consumer Affairs Department, which unfortunately we had to go with. We put back two people so at least we can take phone calls. We're in hard economic times right now. People are going to be calling. We know that people are out there right now ripping other people off, because they are hard up for money, and yet we're not even going to have a Consumer Affairs Department other than someone at the end of a phone line ready to transfer you to somewhere else.

We were asked to take Tourism and Economic Development and to merge them into one entity. As we looked at that option we saw that they have two different missions. While we might save a little bit of money, in the end we really lose money because we are not providing that economic development which is going to bring the jobs. Nor would we bring in the tourists who pay a lot of our taxes.

Another example that I want to share is that we had a recommendation from the Department of Agriculture to eliminate the crop inspector position in Winnemucca. We would have potato crops sitting there and waiting for several days for inspection and in the meantime they could rot. Our agriculture is an important part of the Nevada economy. We still had to make cuts but we were able to put that position back. We were going to have brand inspectors doing plant inspections. I don't know if we could get any more bare bones than we are and continue to function as a state, and so I urge your support.

We started this process two weeks before the session started, as was mentioned, and we met with the Senate together in these subcommittees and in the full committees. We've done everything that we could. We've heard a lot of testimony. We've had to cut what we could and still keep things going. Even though the museums are going to be open a few days a week, at least they are still going to be open. Hopefully we can come back next time and get them up and running again. I urge your support.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of the Appropriations Act, Assembly Bill 562. We have heard a lot of discussion today about the budget. We even heard from a colleague in Reno who said we are expanding government. And yet you have heard a lot of testimony from those of us who serve on the money committee and our chairs from different subcommittees, and I hope it has convinced you that we are hardly expanding government. As the chair of the Health and Human Services Subcommittee, I would like to give you a few examples of how I think the subcommittee, as the good doctor from southern Nevada pointed out, worked, not only in a bipartisan fashion but in a bicameral fashion, to come up with a better plan.

For juvenile justice, for example, the Governor's budget came over cutting 88 beds in our state institutions and cutting the community corrections block grant, which is where we provide programs and prevention at the local level, so the kids do not come to the state institutions. And no additional money for youth parole officers. Think about that for a minute, as the subcommittee did. Where do these kids go? We are not providing them help in the community. We are cutting 88 beds. And there is no one to watch over them with youth parole. The subcommittee quickly figured out that was not going to work. We came up with a better plan. We did cut the beds. We added money to the community corrections block grants, working with the local communities, to keep the kids at home with their families but in a program to stay out of trouble. We added four youth parole officers to supervise the kids who are leaving institutions, to maintain public safety.

Nevada Check Up is another example. The Governor wanted to cap enrollment in this program, which is our state's SCHIP program that provides health insurance to children of working poor families. The federal government pays over half the cost of the program. The number one reason children go to emergency rooms, which is the place that costs the most to get your health care, is ear infections, something that is easily treatable in a general medical practice. Why would we want to cut poor children off of health insurance? The subcommittee voted to uncap Nevada Check Up.

During the special sessions, in the midst of our budget crisis, we had to implement a 5 percent rate reduction in our hospitals. The Governor's budget for the next biennium had an additional five percent cut in provider rates. The subcommittee heard a lot of testimony from hospitals, on top of other places where they are getting hurt in the budget, and we had testimony that several hospitals might close in our state. Together, we came up with the recommendation to not accept the Governor's budget and to not implement the additional five percent reduction.

Too many of our Nevadans have to go into nursing homes when they would much rather remain in their own home, but need certain essential services in order to stay in their home. The subcommittee restored 394 Medicaid slots for those elderly Nevadans who want to remain in

their homes. This makes good fiscal sense because then we are not paying the nursing home costs. We came up with a better plan.

The Governor cut 225 positions in our mental health hospitals. The subcommittee looked at that very carefully and we restored 31 positions in southern Nevada. There have been two rapes in our southern Nevada mental health hospital. It is a matter of patient safety and staff safety, to have adequate staffing. We worked hard as a subcommittee to go through that budget and determine what the 31 critical positions are, to make sure our patients and our state staff are safe.

The Governor cut over half of the rural mental health clinics in this state—eleven of them. The subcommittee worked with our rural Assembly members to come up with a reorganization plan and a better plan to restore nine of those eleven rural mental health clinics. So, someone who lives in Hawthorne does not have to drive to Yerington to get emergency mental health care.

The Consumer Health Assistance Office was cut by the Governor. This is the office that helps consumers go over their hospital bills and make sure they are being appropriately charged and paid for. That saves millions of dollars for the state. We put it back.

2-1-1 is the phone line where people call in when they need help finding an available service. When times are tough, people need those services more than ever. We put some money back for that.

There was also funding for victims of domestic violence. I could go on and on, Madam Speaker, but I want to talk just a little bit about things we did end up cutting so no one can walk out of here and with a straight face say we are expanding state government.

We cut medication for mental health patients in Reno. We had testimony that said we were going to ration mental health medications. Can you imagine that? For the severely mentally ill that live in downtown Reno, we are going to say, "You can have your medication today. You cannot have it tomorrow." Where are those folks going to go? They are going to go to jail. They are going to go to the emergency rooms. And they are going to be in the downtown, hurting business. We had to cut it. There is no money. We told the mental health agency they can come back during the interim, if they really start rationing medications and ask for some help. Maybe our contingency fund will help us with that.

I think all of us can remember the day that we had the autism mothers and fathers come in and show videos of the treatment that has helped those kids in the last two years. The Governor's budget eliminated \$3.2 million and would have cut these kids off of treatment. If you could have seen that video of what the kids were like before they got the treatment and what they are like now, in the middle of their treatment, and the progress that they have made, I don't think anyone in this body would have voted to cut off that funding.

Now there are those who are saying today, like our minority leader, that they can vote for the budget because they know how hard we worked. And we did work hard and we came up with an essential services budget. But she is not sure she can vote for the revenue to fund it, because she does not like the things that are in there. I don't like the things that are in there. I don't like what it's in the revenue package much. If it was up to me, it would look entirely different. If it was up to our majority leader, it would look entirely different. Every single one of the 63 of us would have a different revenue package if it was up to us. That is not how it works. We work together. We compromise. We come up with our best plan, together. You can't vote for a spending plan and not vote for a revenue plan. So, if you are not going to fund it, I don't know why you would vote for it. Thank you.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. I am sure all of us feel the weight here in the room today. This is where it is all coming together. Going through the campaign cycle, knowing that the state has been experiencing more pain than most any of us have seen in our lifetimes, and then coming into the session and hearing about cuts and what would happen and sitting through hearings and reading the press on where we are as a state, I decided this session I would save my comments for times when I was really, really passionate about something. And the thoughts I have to share hopefully will reflect the passion that I have for the people that I represent, the constitutional responsibility that I accepted when I came here.

I came here, Madam Speaker, with the fundamental belief that if families have to live within their means, and families should only spend the money that they have, that we as government should only spend the money that we have. To the previous speaker, who said in her final comments—and I agree—if someone is not going to fund the revenue side, then don't support the spending side.

I am standing before you today to share what I consider is an interesting observation, especially because a year ago I didn't even expect that I was going to be back here. Maybe that would have been a nice bullet to dodge because I feel like this decision today is very much a challenge. I read a Forbes' article that highlighted the three fastest growing states—Arizona, Florida, and Nevada and their growth from 2000 to 2008. It highlighted that Nevada's state budget growth has been greater than those other two states and that our budget growth has outpaced population and inflation by 40 percent. I just ask myself, being here now four times, how long will we continue this? I don't know. One of my colleagues from Armargosa Valley referred to the bills that were introduced to bring certain reforms.

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

Mr. Christensen, I am going to have to cut you off there. I gave Mr. Goedhart some latitude, but under the rules of the floor, you can't refer to other bills and measures. You have to speak to this bill.

ASSEMBLYMAN CHRISTENSEN:

I will close with this comment. I know that there are a lot of issues to be addressed, a lot of things that need to be taken care of. I am confident in the ability of this body to take care of those. I wholeheartedly expect that this measure will pass. I wanted my comments to go on the record. I do not know if I will be back here again to share these comments. I do have great concerns as I see the budget growing and this bill, should it pass, will have expenditures that go beyond what we have, which goes against a belief I have. We have to rein this in. We have to be smart with our dollars, especially with what all of us see happening to our neighbor to the west, California. I am here. I am speaking. I am doing everything I can to make sure that Nevada does not ever become or put itself in a position to experience the pain that California is going to experience. Madam Speaker, I appreciate the opportunity to speak. I will be voting no on this bill.

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

When we entered this session, we were given staggering news that we would have a deficit of 44 percent in order to fund services at the current level. So, what did we do? We started in our money committees a process of looking at our priorities. We had three missions: What could we cut? What could we reform? What did we have to preserve?

Republicans and Democrats sat side-by-side and went through every budget account. It is easy to cut. It is easy to say, "Oh, just cut it within your revenue availability." But we are constitutionally mandated to provide adequate funding for schools. When times are tough and a family doesn't have revenue, they also don't have the constitutional responsibility of accepting every new student who walks in that door, to constitutionally fund prisons, and health and human services. We looked at our responsibility and we looked at every budget account and we cut. There is no expansion of government in this bill. We cut. But as members previously said, we did it in a smart manner.

We looked, for example, as my colleague that chaired the health and human services subcommittee said, at the mental health hospitals. We end up cutting three-fourth's of the positions. But how do you not have adequate staff in order to ensure that mentally ill patients are being cared for in a safe manner? We morally cannot do that. We legally cannot do that.

We had the Gaming Control Board come to us and testify, saying that if some of the Governor's cuts were not restored, they could not adequately regulate the gaming industry. That is our largest industry. How can we not provide the tools to the Gaming Control Board, to do their jobs?

In K-12 education, we are already funded forty-sixth in the nation. You look at population growth and say, “Look at how much Nevada has expanded.” But what you truly have to look at is your responsibilities as a state. For example, what if you suddenly receive so many students you have to build one new elementary school every month? That is what we had in Las Vegas. When you look at our education budget and what the Governor suggested—which were cuts of over \$600 million to an education system that is funded already forty-sixth in the nation—what is our priority? Our constituents tell us all the time. It is a quality education system. They want that system for their children and for their grandchildren. And that is what we hear the most from businesses because they know if they do not have a qualified workforce, they cannot succeed and then we cannot grow as a state. We looked at the education budget from top to bottom. We asked, “Does it make sense to close the teacher training centers that we just built, in order to produce highly qualified teachers?” Does it? We decided that our results were not where we needed them to be because we didn’t have a teacher training center. So what did we do? Did we just restore every dollar? No. My colleague from Sparks spent the time, along with my colleague from Yerington, looking at all the regional professional development centers, funding them at 60 percent, eliminating one but saying it makes no sense to spend more money in the next biennium recreating this, by closing it now. We did the same thing with the rural mental health clinics. Did we put every dollar back? No. But we decided it made no sense to close every rural mental health clinic when the mentally ill are still in that community. And in fact, they are receiving more requests for services because the economy is in trouble.

All session I was proud of the work that was done in our Assembly Ways and Means Committee, by Republicans and Democrats. What separates us from Washington, D.C. and California is that we may disagree sometimes but we strive for agreement. We strive for bipartisanship. That’s what makes Nevada different. And that’s what we should not lose. And we didn’t lose that in the money committee. Not every person got everything they wanted on every issue. That is not how legislative sessions work. But we produced a budget that makes sense. We produced a budget that restored money to K-12 education so that we would not have larger class sizes. We restored the regional professional development centers. We restored incentives to make sure we are keeping teachers of at-risk schools and teachers who are highly qualified to teach math and science. We restored money to higher education because it makes no sense to close UNLV or UNR and to have a 36 percent cut to every community college in the state. We restored \$40 million to the health and human services budget. Our criteria was if we could live with ourselves if we cut autistic children off their treatment or had inadequate staffing at our mental health facilities, or cut pregnant women off of health insurance. That’s what we did. With public safety, as was outlined by our chair of the public safety subcommittee, we actually saved money by not building a new prison for \$200 million and restoring \$30 million to keep another prison open during these tough economic times.

I want to say, especially to the chairs of the subcommittees, that you did a tremendous job producing a budget that makes sense and I appreciate your work. To our staff, you did an amazing job. With regard to reforms, perhaps you missed those days. We passed a measure just yesterday and a budget closing last week where we reformed the Public Employee Benefit program. We changed eligibility from 5 years to 15 years. We now have indexed the cost of the program. We eliminated benefits and have now saved that program by the reforms we implemented. There is a reform bill pending for PERS, too. Just because you don’t get every bill you want doesn’t mean reform doesn’t happen. Sometimes it can happen without you.

Roll call on Assembly Bill No. 562:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

EXCUSED—Grady.

Assembly Bill No. 562 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 451.

Bill read third time.

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

Amendment No. 886.

AN ACT relating to state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans to certain minority-owned and other small businesses in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows the State Treasurer to invest the money of this State in negotiable certificates of deposit issued by commercial banks, insured credit unions or insured savings and loan associations. (NRS 355.140) **Section 15** of this bill requires the State Treasurer to establish a Linked Deposit Program whereby the State, in an aggregate amount not to exceed \$20,000,000, invests in certificates of deposit with commercial banks, insured credit unions or insured savings and loan associations at a reduced rate of interest on the condition that the lending institution link the value of each certificate of deposit to a reduced-rate loan to certain types of small businesses. **Section 15** also provides that the rate of interest paid to the State on the deposit is to be not more than 2 percentage points below the market rate for such a deposit, and the loan rate is to be reduced not more than 2 percentage points below the market rate for such a loan. Further, **section 15** requires a lending institution to sign an agreement with the State Treasurer as to the terms of such a deposit and its linked loan.

Section 17 of this bill requires a lending institution that participates in the Linked Deposit Program to apply all the usual lending standards to determine the creditworthiness of a small business seeking a loan and further requires that a preference be given to certain small businesses that are owned by a member of a racial or ethnic minority, a woman or an honorably discharged veteran of the Armed Forces of the United States. **Section 19** of this bill limits such loans to not more than \$500,000 and to a term of not longer than 10 years. **Section 18** of this bill limits the types of businesses that are eligible to participate in the Linked Deposit Program.

Section 21 of this bill prohibits the State Treasurer from making any new investments through the Linked Deposit Program after June 30, 2011.

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

- Section 1. (Deleted by amendment.)
- Sec. 2. (Deleted by amendment.)
- Sec. 3. (Deleted by amendment.)
- Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 20, inclusive, of this act.

Sec. 13. *The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of reduced-rate lending to minority-owned and certain other small businesses.*

Sec. 14. *As used in sections 13 to 20, inclusive, of this act, unless the context otherwise requires:*

1. *"Eligible small business" means a business that meets the requirements of section 18 of this act.*

2. *"Linked deposit" means a certificate of deposit issued pursuant to sections 15 to 20, inclusive, of this act to the State Treasurer by a qualified lending institution at an interest rate not more than 2 percent below the current market rate on the condition that the institution agrees to lend the value of the deposit, according to a deposit agreement made pursuant to section 15 of this act, to an eligible small business at a rate that is at least 2 percent lower than the current market rate for such a loan.*

3. *"Qualified lending institution" means a commercial bank, a savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 16 of this act.*

Sec. 15. 1. *The State Treasurer shall establish a Linked Deposit Program to increase the availability of reduced-rate loans to certain small businesses owned and operated in this State.*

2. *The State Treasurer may invest in reduced-rate certificates of deposit with qualified lending institutions upon acceptance of a loan package pursuant to this section and section 17 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to the State Treasurer must be linked to a reduced-rate loan made by the qualified lending institution to an eligible small business.*

3. *The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, \$20,000,000.*

4. *The State Treasurer may accept or reject a linked deposit loan package presented by a qualified lending institution.*

5. *Upon acceptance of a linked deposit loan package from a qualified lending institution:*

(a) *The State Treasurer may place a linked deposit with the lending institution at a rate that is not more than 2 percentage points below the*

market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include requirements necessary to carry out the purposes of sections 13 to 20, inclusive, of this act. The deposit agreement must specify, without limitation:

(1) The rate of interest to be paid on the deposit;

(2) The rate of interest to be charged for the loan linked to the deposit;

(3) That the qualified lending institution:

(I) Shall loan an amount equal to the amount of the deposit to an eligible small business at a rate that is reduced from the current market rate for such a loan in the same amount as the reduction in rate received from the State Treasurer for the linked deposit;

(II) Shall verify that the small business is eligible for such a loan;

(III) Shall collect and supply the State Treasurer with any information requested as to the loan and the eligible small business; and

(IV) Shall notify the State Treasurer immediately if the eligible small business becomes ineligible for the Linked Deposit Program during the term of the loan; and

(4) That the rate of interest to be paid on the deposit will revert to the current market rate at the time the eligible small business becomes ineligible for the Linked Deposit Program.

6. The State Treasurer shall compile and maintain on his Internet website a list of small businesses that have received loans from the Linked Deposit Program. The list must include, without limitation, for each business listed:

(a) The name of the business;

(b) The type of business;

(c) The location of the business;

(d) The amount and term of the linked deposit loan; and

(e) The name and location of the qualified lending institution that made the loan.

Sec. 16. 1. The State Board of Finance shall qualify a lending institution for participation in the Linked Deposit Program established by the State Treasurer pursuant to section 15 of this act.

2. To qualify for participation in the Linked Deposit Program, a lending institution must:

(a) Be a commercial bank organized under chapter 659 of NRS, an insured savings and loan association organized under chapter 673 of NRS or an insured credit union organized under chapter 678 of NRS;

(b) Agree to actively advertise to and inform small businesses of the availability of reduced-rate loans through the Linked Deposit Program;

(c) Make information about the Linked Deposit Program available on the public Internet website of the institution, if any; and

(d) Apply for qualification on a form provided by the State Board of Finance.

3. The State Board of Finance shall adopt regulations necessary to carry out the provisions of this section.

Sec. 17. 1. A qualified lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible small businesses on a form provided by the State Treasurer. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business, including, without limitation, the consideration of:

- (a) Character, reputation and credit history of the applicant;*
- (b) Experience and depth of management;*
- (c) Strength of the business;*
- (d) Past earnings, projected cash flow and future prospects;*
- (e) Ability to repay the loan with earnings from the business;*
- (f) Sufficient invested equity to operate on a sound financial basis; and*
- (g) Potential for long-term success.*

2. In determining which small business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal:

(a) First, to a business that is at least 51-percent owned by a resident of this State who is:

- (1) A member of a racial or ethnic minority;*
- (2) A woman; or*
- (3) An honorably discharged veteran of the Armed Forces of the United States.*

(b) Second, to a business engaged in the production and sale of fuel or power from an energy source other than a fossil fuel, including, without limitation, geothermal, hydroelectric, solar or wind energy.

3. A qualified lending institution must submit a loan package to the State Treasurer for each Linked Deposit Program loan, on a form provided by the State Treasurer. The loan package must include, without limitation, verification by the qualified lending institution that the eligible small business meets the requirements of this section and section 18 of this act and that the use of proceeds as specified in the loan meets the requirements of section 19 of this act.

Sec. 18. 1. To be eligible for a loan from a qualified lending institution pursuant to the Linked Deposit Program established pursuant to section 15 of this act, a business must:

- (a) Employ not more than 50 employees;*
- (b) Be headquartered in this State;*
- (c) Maintain offices or operating facilities in this State;*
- (d) Transact business in this State;*
- (e) Be organized for profit;*

(f) *Have gross annual sales of less than \$5,000,000 at the time of application pursuant to this section;*

(g) *Satisfy the lending criteria of the qualified lending institution;*

(h) *Submit verification of eligibility for a linked deposit loan with a qualified lending institution on a form provided by the State Treasurer; and*

(i) *Submit an application for a linked deposit loan with a qualified lending institution on a form provided by the qualified lending institution.*

2. *The following types of businesses are not eligible for a loan from a qualified lending institution under the Linked Deposit Program established pursuant to section 15 of this act:*

(a) *Nonprofit businesses;*

(b) *Financial businesses engaged primarily in the business of lending, including, without limitation, banks, finance companies and pawnbrokers;*

(c) *Speculative real estate development companies;*

(d) *Subsidiaries of businesses located in a foreign country;*

(e) *Businesses which have previously defaulted on a Linked Deposit Program loan or federally assisted financing;*

(f) *Businesses which engage in any illegal activity; and*

(g) *Any business which is ineligible under regulations adopted by the State Treasurer pursuant to section 20 of this act.*

Sec. 19. 1. *A reduced-rate loan made pursuant to the Linked Deposit Program may not:*

(a) *Exceed \$500,000; and*

(b) *Have a term of more than 10 years.*

2. *An eligible small business may use loan proceeds from a linked deposit reduced-rate loan for the following purposes:*

(a) *Working capital;*

(b) *Real property acquisition;*

(c) *Establishing a line of credit;*

(d) *Financing of accounts receivable;*

(e) *Purchase of equipment, except that such equipment must not be purchased to replace the work or function of employees, resulting in layoffs or downsizing; and*

(f) *Any other purpose permissible under regulations adopted by the State Treasurer pursuant to section 20 of this act.*

Sec. 20. *The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 13 to 20, inclusive, of this act.*

Sec. 21. Notwithstanding the provisions of section 15 of this act, the State Treasurer shall not accept a linked deposit loan package or invest in a reduced-rate certificate of deposit after June 30, 2011.

~~Sec. 21.~~ Sec. 22. This section and sections 12 to ~~20,~~ 21, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

Assemblyman Arberry moved the adoption of the amendment.

Remarks by Assemblyman Arberry.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 394.

Bill read third time.

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

Amendment No. 879.

AN ACT relating to off-highway vehicles; requiring certain owners of off-highway vehicles to obtain certificates of title and registration for those vehicles; requiring the Department of Motor Vehicles to charge and collect certain fees; creating the Fund for Off-Highway Vehicles; creating the Commission on Off-Highway Vehicles; creating the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration as a special account in the Motor Vehicle Fund; eliminating the requirement that certain persons obtain certificates of operation before operating off-highway vehicles; providing for the licensing of dealers, manufacturers and lessors of off-highway vehicles and for the consignment of off-highway vehicles; making various other changes relating to off-highway vehicles; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from operating an off-highway vehicle on a highway in this State unless the person has obtained a certificate of operation for the off-highway vehicle and has attached the certificate of operation to the off-highway vehicle in the manner specified by the Department of Taxation. (NRS 490.080) The term "off-highway vehicle" means any motor vehicle that is designed primarily for off-highway and all-terrain use, including, without limitation, an all-terrain vehicle, an all-terrain motorcycle, a dune buggy, a snowmobile or any motor vehicle used for recreational purposes on public lands. (NRS 490.060)

Existing law requires an authorized dealer of off-highway vehicles to issue a certificate of operation for the off-highway vehicle upon the sale of the vehicle or upon request by a person who purchased the vehicle outside this State under certain circumstances. (NRS 490.070)

With limited exceptions, **section 12** of this bill requires a person who acquires ownership of an off-highway vehicle on or after ~~July 1, 2010,~~ **the effective date of that section as provided in paragraph (b) of subsection 2 of section 63 of this act** to apply to the Department of Motor Vehicles for the titling and annual registration of the vehicle within 30 days after acquiring ownership of the vehicle. A person who acquired ownership of an off-highway vehicle before ~~July 1, 2010,~~ **the effective date of section 12 as provided in paragraph (b) of subsection 2 of section 63 of this act** may apply to the Department for the titling of the vehicle, but is required to apply

to the Department for annual registration of the vehicle ~~on or before June 30, 2011~~ **within 1 year after that date.**

Section 15 of this bill creates the Fund for Off-Highway Vehicles in the State Treasury. A portion of the money received from the fees collected pursuant to **section 12** of this bill must be deposited into the Fund. All money deposited into the Fund must be used only for projects relating to off-highway vehicles as set forth in **section 15**.

Section 16 of this bill creates the Commission on Off-Highway Vehicles. The Commission consists of 11 members who are appointed by the Governor. Each member of the Commission serves for a term of 3 years and, if money is available from the Fund for Off-Highway Vehicles, is entitled to receive the per diem allowance and travel expenses provided to state officers and employees.

Section 17 of this bill imposes various duties upon the Commission, including, without limitation, the duty to select nonvoting advisers to the Commission and to adopt regulations for awarding grants from the Fund for Off-Highway Vehicles.

Section 59 of this bill, in part, repeals the provisions of NRS 490.030, which define the term "Department" for purposes of chapter 490 of NRS to mean the Department of Taxation. Because NRS 481.015 defines the term "Department" for purposes of title 43 of NRS to mean the Department of Motor Vehicles, the effect of the repeal of NRS 490.030 and the amendment of NRS 481.015 set forth in **section 1** of this bill is to place the authority to administer the provisions of chapter 490 of NRS under the Department of Motor Vehicles.

Sections 20-52 of this bill provide for the licensing of manufacturers, dealers and lessors of off-highway vehicles and for the consignment of off-highway vehicles.

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

Section 1. NRS 481.015 is hereby amended to read as follows:

481.015 1. Except as otherwise provided in this subsection, as used in this title, unless the context otherwise requires, "certificate of title" means the document issued by the Department that identifies the legal owner of a vehicle and contains the information required pursuant to subsection 2 of NRS 482.245. The definition set forth in this subsection does not apply to chapters 488 and 489 of NRS.

2. Except as otherwise provided in chapter 480 of NRS, NRS 484.388 to 484.3888, inclusive, 486.363 to 486.377, inclusive, and chapters 486A ~~488 and 490~~ **and 488** of NRS, as used in this title, unless the context otherwise requires:

(a) "Department" means the Department of Motor Vehicles.

(b) "Director" means the Director of the Department ~~of Motor Vehicles.~~

Sec. 2. NRS 481.048 is hereby amended to read as follows:

481.048 1. The Director shall appoint, within the limits of legislative appropriations, investigators for the Division of Compliance Enforcement.

2. The duties of the investigators are to travel the State and:

(a) Act as investigators in the enforcement of the provisions of chapters 482, ~~and~~ 487 **and 490** of NRS, NRS 108.265 to 108.367, inclusive, and 108.440 to 108.500, inclusive, as those sections pertain to motor vehicles, trailers, motorcycles, recreational vehicles and semitrailers, as defined in chapter 482 of NRS ~~and~~, **and off-highway vehicles, as defined in NRS 490.060.**

(b) Act as advisers to any business licensed by the Department in connection with any problems arising under the provisions of chapters 108, 482, 483, ~~and~~ 487 **and 490** of NRS.

(c) Advise and assist personnel of the Nevada Highway Patrol in the enforcement of traffic laws and motor vehicle registration laws as they pertain to any business licensed by the Department.

(d) Act as investigators in the enforcement of the provisions of NRS 483.700 to 483.780, inclusive, relating to the licensing of schools and instructors for training drivers.

(e) Exercise their police powers in the enforcement of the laws of this State to prevent acts of fraud or other abuses in connection with the provision of services offered to the public by the Department.

(f) Perform such other duties as may be imposed by the Director.

Sec. 3. Chapter 490 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 52, inclusive, of this act.

Sec. 4. ***"Commission" means the Commission on Off-Highway Vehicles created by section 16 of this act.***

Sec. 5. ***"Consignee" means any person licensed pursuant to this chapter to sell or lease off-highway vehicles or any person who holds himself out as being in the business of selling, leasing or consigning off-highway vehicles.***

Sec. 6. ***"Consignment" means any transaction whereby the registered owner or lienholder of an off-highway vehicle subject to registration pursuant to this chapter agrees, entrusts or in any other manner authorizes a consignee to act as his agent to sell, exchange, negotiate or attempt to negotiate a sale or an exchange of the interest of the registered owner or lienholder in the off-highway vehicle, whether or not for compensation.***

Sec. 7. ***"Consignment contract" means a written agreement between a registered owner or lienholder of an off-highway vehicle and a consignee to whom the off-highway vehicle has been entrusted by consignment for the purpose of sale that specifies the terms and conditions of the consignment and sale.***

Sec. 8. ***"Fund" means the Fund for Off-Highway Vehicles created by section 15 of this act.***

Sec. 9. *For the purposes of regulation under this chapter and of imposing tort liability under NRS 41.440, and for no other purpose:*

1. *"Lease" means a contract by which the lienholder or owner of an off-highway vehicle transfers to another person, for compensation, the right to use such off-highway vehicle.*

2. *"Long-term lessee" means a person who has leased an off-highway vehicle from another person for a fixed period of more than 31 days.*

3. *"Long-term lessor" means a person who has leased an off-highway vehicle to another person for a fixed period of more than 31 days.*

4. *"Short-term lessee" means a person who has leased an off-highway vehicle from another person for a period of 31 days or less, or by the day, or by the trip.*

5. *"Short-term lessor" means a person who has leased an off-highway vehicle to another person for a period of 31 days or less, or by the day, or by the trip.*

Sec. 9.5. *"Manufacturer" means every person engaged in the business of manufacturing off-highway vehicles.*

Sec. 10. 1. *"Off-highway vehicle dealer" means any person who:*

(a) *For compensation, money or other thing of value sells, exchanges, buys, offers or displays for sale, negotiates or attempts to negotiate a sale or exchange of an interest in an off-highway vehicle;*

(b) *Represents himself as having the ability to sell, exchange, buy or negotiate the sale or exchange of an interest in an off-highway vehicle under this chapter or in any other state or territory of the United States;*

(c) *Receives or expects to receive a commission, money, brokerage fee, profit or any other thing of value from the seller or purchaser of an off-highway vehicle; or*

(d) *Is engaged wholly or in part in the business of selling off-highway vehicles or buying or taking in trade off-highway vehicles for the purpose of resale, selling or offering for sale or consignment to be sold or otherwise dealing in off-highway vehicles, whether or not he owns the off-highway vehicles.*

2. *"Off-highway vehicle dealer" does not include:*

(a) *An insurance company, bank, finance company, governmental agency or any other person coming into possession of an off-highway vehicle, acquiring a contractual right to an off-highway vehicle or incurring an obligation with respect to an off-highway vehicle in the performance of official duties or under the authority of any court of law, if the sale of the off-highway vehicle is to save the seller from loss or pursuant to the authority of a court of competent jurisdiction;*

(b) *A person, other than a long-term or short-term lessor, who is not engaged in the purchase or sale of off-highway vehicles as a business but is disposing of off-highway vehicles acquired by the owner for his use and not to avoid the provisions of this chapter, or a person who sells not more than three personally owned off-highway vehicles in any 12-month period;*

(c) Persons regularly employed as salesmen by off-highway vehicle dealers, licensed under this chapter, while those persons are acting within the scope of their employment; or

(d) Persons who are incidentally engaged in the business of soliciting orders for the sale and delivery of off-highway vehicles outside the territorial limits of the United States if their sales of such vehicles produce less than 5 percent of their total gross revenue.

Sec. 11. "Off-highway vehicle salesman" means:

1. A person employed by an off-highway vehicle dealer, under any form of contract or arrangement to sell, exchange, buy, or offer for sale, or exchange an interest in an off-highway vehicle to any person, who receives or expects to receive a commission, fee or any other consideration from the seller or purchaser of the off-highway vehicle; or

2. A person who exercises managerial control within the business of an off-highway vehicle dealer or a long-term or short-term lessor, or who supervises salesmen employed by an off-highway vehicle dealer or a long-term or short-term lessor, whether compensated by salary or by commission, or who negotiates with or induces a customer to enter into a security agreement on behalf of an off-highway vehicle dealer or a long-term or short-term lessor of off-highway vehicles.

Sec. 12. 1. An owner of an off-highway vehicle that is acquired:

(a) Before ~~July 1, 2010,~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:

(1) May apply for, to the Department by mail or to an authorized dealer and obtain ~~it~~ from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, ~~on or before June 30, 2011,~~ within 1 year after the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, apply for, to the Department by mail or to an authorized dealer, and obtain ~~it~~ from the Department, the registration of the off-highway vehicle.

(b) On or after ~~July 1, 2010,~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, shall within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain ~~it~~ from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain ~~it~~ from the Department, the registration of the off-highway vehicle.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, he shall submit to the Department or to the authorized dealer proof prescribed by the Department that he is the owner of the off-highway vehicle.

(b) *The registration of the off-highway vehicle, he shall submit:*

(1) *If he obtained ownership of the off-highway vehicle before ~~July 1, 2010,~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, proof prescribed by the Department:*

(I) *That he is the owner of the off-highway vehicle; and*

(II) *Of the unique vehicle identification or serial number for the off-highway vehicle; or*

(2) *If he obtained ownership of the off-highway vehicle on or after ~~July 1, 2010,~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:*

(I) *Evidence satisfactory to the Department that the owner has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle or submit an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and*

(II) *Proof prescribed by the Department that he is the owner of the off-highway vehicle and of the unique vehicle identification or serial number for the off-highway vehicle.*

3. *Registration of an off-highway vehicle is not required if the off-highway vehicle:*

(a) *Is owned and operated by:*

(1) *A federal agency;*

(2) *An agency of this State; or*

(3) *A county, incorporated city or unincorporated town in this State;*

(b) *Is part of the inventory of a dealer of off-highway vehicles;*

(c) *Is registered or certified in another state and is located in this State for not more than 60 days;*

(d) *Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;*

(e) *Is used for work conducted by or at the direction of a public or private utility; or*

(f) *Was manufactured before January 1, 1976.*

4. *The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of \$25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.*

5. *If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a*

certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

(a) Set forth by the Department by regulation; and

(b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who ~~has registered the off-highway vehicle in a state that has similar requirements for the registration of off-highway vehicles.~~ is not a resident of this State.

Sec. 13. Each registration of an off-highway vehicle must:

1. Be in the form of a sticker or decal, as prescribed by the Department ~~and approved by the Commission.~~

2. Be approximately the size of a license plate for a motorcycle, as set forth by the Department.

3. Include a unique vehicle identification or serial number for the off-highway vehicle.

4. Be displayed on the off-highway vehicle in the manner set forth by the Commission.

Sec. 14. 1. The Department shall determine the fee for issuing a certificate of title for an off-highway vehicle, but such fee must not exceed the fee imposed for issuing a certificate of title pursuant to NRS 482.429. Money received from the payment of the fees described in this subsection must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

2. The Commission shall determine the fee for the annual registration of an off-highway vehicle, but such fee must not be less than \$20 or more than \$30. Money received from the payment of the fees described in this subsection must be distributed as follows:

(a) During the period ~~from July 1, 2010, through June 30, 2011.~~ beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date:

(1) Eighty-five percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 15 percent must be deposited into the Fund.

(b) On or after ~~July 1, 2011.~~ the expiration of the period specified in paragraph (a):

(1) Fifteen percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) *To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the Fund.*

Sec. 15. 1. *The Fund for Off-Highway Vehicles is hereby created in the State Treasury as a revolving fund. The Commission shall administer the Fund. Any money remaining in the Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.*

2. *During the period ~~from July 1, 2010, through June 30, 2011,~~ beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date, money in the Fund may only be used by the Commission for the reasonable administrative costs of the Commission and to inform the public of the requirements of this chapter.*

3. *On or after ~~June 30, 2011,~~ the expiration of the period specified in subsection 2, money in the Fund may only be used by the Commission as follows:*

(a) *Not more than 5 percent of the money that is in the Fund as of January 1 of each year may be used for the reasonable administrative costs of the Fund.*

(b) *Except as otherwise provided in subsection 4, 20 percent of any money in the Fund as of January 1 of each year that is not used pursuant to paragraph (a) must be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor, and any remaining portion of that money may be used as follows:*

(1) *Sixty percent of the money may be used for projects relating to:*

(I) *Studies or planning for trails and facilities for use by owners and operators of off-highway vehicles. Money received pursuant to this sub-subparagraph may be used to prepare environmental assessments and environmental impact studies that are required pursuant to 42 U.S.C. §§ 4321 et seq.*

(II) *The mapping and signing of those trails and facilities.*

(III) *The acquisition of land for those trails and facilities.*

(IV) *The enhancement and maintenance of those trails and facilities.*

(V) *The construction of those trails and facilities.*

(VI) *The restoration of areas that have been damaged by the use of off-highway vehicles.*

(2) ~~*Twenty percent of the money may be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor.*~~

~~(3)~~ *Fifteen percent of the money may be used for safety training and education relating to off-highway vehicles.*

4. *If money is used for the projects described in paragraph (b) of subsection 3, not more than 30 percent of such money may be allocated to any one category of projects described in subparagraph (1) of that paragraph.*

Sec. 16. 1. *The Commission on Off-Highway Vehicles is hereby created.*

2. *The Commission consists of 11 members as follows:*

(a) *One member who is an authorized dealer, appointed by the Governor;*

(b) *One member who is a sportsman, appointed by the Governor from a list of persons submitted to him by the Director of the Department of Wildlife;*

(c) *One member who is a rancher, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Agriculture;*

(d) *One member who is a representative of the Nevada Association of Counties, appointed by the Governor from a list of persons submitted to him by the Executive Director of the Association;*

(e) *One member who is a representative of law enforcement, appointed by the Governor from a list of persons submitted to him by the Nevada Sheriffs' and Chiefs' Association;*

(f) *One member, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Conservation and Natural Resources, who:*

(1) *Possesses a degree in soil science, rangeland ecosystems science or a related field;*

(2) *Has at least 5 years of experience working in one of the fields described in subparagraph (1); and*

(3) *Is knowledgeable about the ecosystems of the Great Basin Region of central Nevada or the Mojave Desert; and*

(g) *One member, appointed by the Governor, who is a representative of an organization that represents persons who use off-highway vehicles to access areas to participate in recreational activities that do not primarily involve off-highway vehicles;*

(h) *Four members, appointed by the Governor, who reside in the State of Nevada and have participated in recreational activities for off-highway vehicles for at least 5 years using the type of off-highway vehicle owned or operated by the persons they will represent, as follows:*

(1) *One member who represents persons who own or operate all-terrain vehicles;*

(2) *One member who represents persons who own or operate all-terrain motorcycles;*

(3) *One member who represents persons who own or operate snowmobiles; and*

(4) *One member who represents persons who own or operate, and participate in the racing of, off-highway ~~vehicles,~~ motorcycles.*

3. *The Governor shall not appoint to the Commission any member described in paragraph (h) of subsection 2 unless the member has been recommended to the Governor by an off-highway vehicle organization. As used in this subsection, "off-highway vehicle organization" means a profit or nonprofit corporation, association or organization formed pursuant to the laws of this State and which promotes off-highway vehicle recreation or racing.*

4. *After the initial terms, each member of the Commission serves for a term of 3 years. A vacancy on the Commission must be filled in the same manner as the original appointment.*

5. *Except as otherwise provided in this subsection, a member of the Commission may not serve more than two consecutive terms on the Commission. A member who has served two consecutive terms on the Commission may be reappointed if the Governor does not receive any applications for that member's seat or if the Governor determines that no qualified applicants are available to fill that member's seat.*

6. *The Governor shall ensure that, insofar as practicable, the members whom he appoints reflect the geographical diversity of this State.*

7. *Each member of the Commission:*

(a) *Is entitled to receive, if money is available for that purpose from the fees collected pursuant to section 14 of this act, the per diem allowance and travel expenses provided for state officers and employees generally.*

(b) *Shall swear or affirm that he will work to create and promote responsible off-highway vehicle recreation in the State. The Governor may remove a member from the Commission if the member violates the oath described in this paragraph.*

8. *The Commission may employ an Executive Secretary, who must not be a member of the Commission, to assist in its daily operations and in administering the Fund.*

9. *The Commission may adopt regulations for the operation of the Commission. Upon request by the Commission, the nonvoting advisers solicited by the Commission pursuant to section 17 of this act may provide assistance to the Commission in adopting those regulations.*

Sec. 17. 1. *The Commission shall:*

(a) *Elect a Chairman, Vice Chairman, Secretary and Treasurer from among its members.*

(b) *Meet at the call of the Chairman.*

(c) *Meet at least four times each year.*

(d) *Solicit nine nonvoting advisers to the Commission to serve for terms of 2 years as follows:*

(1) *One adviser from the Bureau of Land Management.*

(2) *One adviser from the United States Forest Service.*

(3) *One adviser who is:*

(I) From the Natural Resources Conservation Service of the United States Department of Agriculture; or

(II) A teacher, instructor or professor at an institution of the Nevada System of Higher Education and who provides instruction in environmental science or a related field.

(4) One adviser from the State Department of Conservation and Natural Resources.

(5) One adviser from the Department of Wildlife.

(6) One adviser from the Department of Motor Vehicles.

(7) One adviser from the Commission on Tourism.

(8) One adviser from the Nevada Indian Commission.

(9) One adviser from the United States Fish and Wildlife Service.

2. The Commission may award a grant of money from the Fund. Any such grant must comply with the requirements set forth in section 15 of this act. The Commission shall:

(a) Adopt regulations setting forth who may apply for a grant of money from the Fund and the manner in which such a person may submit the application to the Commission. The regulations adopted pursuant to this paragraph must include, without limitation, requirements that:

(1) Any person requesting a grant provide proof satisfactory to the Commission that the appropriate federal, state or local governmental agency has been consulted regarding the nature of the project to be funded by the grant and regarding the area affected by the project;

(2) The application for the grant address all applicable laws and regulations, including, without limitation, those concerning:

(I) Threatened and endangered species in the area affected by the project;

(II) Ecological, cultural and archaeological sites in the area affected by the project; and

(III) Existing land use authorizations and prohibitions, land use plans, special designations and local ordinances for the area affected by the project; and

(3) Any compliance information provided by an appropriate federal, state or local governmental agency, and any information or advice provided by any agency, group or individual be submitted with the application for the grant.

(b) Adopt regulations for awarding grants from the Fund.

(c) Adopt regulations for determining the acceptable performance of work on a project for which a grant is awarded.

(d) Approve the completion of, and payment of money for, work performed on a project for which a grant is awarded, if the Commission determines the work is acceptable.

(e) Monitor the accounting activities of the Fund.

3. The nonvoting advisers solicited by the Commission pursuant to paragraph (d) of subsection 1 shall assist the Commission in carrying out

the duties set forth in this section and shall review for completeness and for compliance with the requirements of paragraph (a) of subsection 2 all applications for grants.

4. For each regular session of the Legislature, the Commission shall prepare a comprehensive report, including, without limitation, a summary of any grants that the Commission awarded and of the accounting activities of the Fund, and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 18. (Deleted by amendment.)

Sec. 19. *1. The Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration is hereby created as a special account in the Motor Vehicle Fund.*

2. The Department shall use the money in the Account to pay the expenses of administering the provisions of ~~sections 12 and 14 of this act.~~ this chapter relating to the titling and registration of off-highway vehicles.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 19.5. 1. The Revolving Account for the Assistance of the Department is hereby created as a special account in the Motor Vehicle Fund.

2. All money received by the Department from the Federal Government or any other source to assist the Department in carrying out the provisions of this chapter relating to the titling and registration of off-highway vehicles must be deposited into the Account.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 20. *The Department, all officers thereof and all peace officers in this State shall enforce the provisions of this chapter.*

Sec. 21. *The Director may adopt and enforce such administrative regulations as are necessary to carry out the provisions of this chapter.*

Sec. 22. *1. Before taking an off-highway vehicle on consignment, an off-highway vehicle dealer or lessor shall prepare a written consignment contract.*

2. A consignment contract must include, without limitation:

(a) The names of the consignor and consignee;

(b) The date on which the consignment contract was entered into;

(c) *A complete description of the off-highway vehicle subject to the consignment contract, including the unique vehicle identification or serial number, and the year, make and model of the off-highway vehicle;*

(d) *The term of the consignment contract;*

(e) *The name of each person or business entity holding any security interest in the off-highway vehicle to be consigned;*

(f) *The minimum sales price for the off-highway vehicle and the disposition of the proceeds therefrom, as agreed upon by the consignor and consignee; and*

(g) *The signatures of the consignor and consignee acknowledging all the terms and conditions set forth in the consignment contract.*

Sec. 23. 1. *A consignee of an off-highway vehicle shall, upon entering into a consignment contract or other form of agreement to sell an off-highway vehicle owned by another person:*

(a) *Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the off-highway vehicle. A consignee of an off-highway vehicle shall not:*

(1) *Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the off-highway vehicle subject to the consignment contract or agreement; or*

(2) *Use any money in the trust account to pay his operational expenses for any purpose that is not related to the consignment contract or agreement.*

(b) *Obtain from the consignor, before receiving delivery of the off-highway vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:*

IMPORTANT NOTICE TO OFF-HIGHWAY VEHICLE OWNERS

State law (section 23 of this act) requires that the operator of this business file a Uniform Commercial Code 1 (UCCI) form with the Office of the Secretary of State on your behalf to protect your interest in your off-highway vehicle. The form is required to protect your off-highway vehicle from forfeiture in the event that the operator of this business fails to meet his financial obligations to a third party holding a security interest in his inventory. The form must be filed by the operator of this business before he may take possession of your off-highway vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCCI form filed on your behalf or for more information, please contact:

*The Office of the Secretary of State of Nevada
Uniform Commercial Code Division*

(775) 684-5708

I understand and acknowledge the above disclosure.

Consignee Signature Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a financial statement of the type described in subsection 5 of NRS 104.9317 and shall file the financial statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the off-highway vehicle is made.

4. The provisions of this section do not apply to:

(a) An executor;

(b) An administrator;

(c) A sheriff; or

(d) Any other person who sells off-highway vehicles pursuant to the powers or duties granted to or imposed on him by specific statute.

5. Notwithstanding any provision of the Nevada Revised Statutes to the contrary, an off-highway vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a

prospective buyer unless the operation of the off-highway vehicle is authorized by the express written consent of the consignor.

6. A consignee shall maintain a written log for each off-highway vehicle for which he has entered into a consignment contract. The written log must include:

- (a) The name and address, or place of residence, of the consignor;*
- (b) A description of the off-highway vehicle consigned, including the year, make, model and unique vehicle identification or serial number of the off-highway vehicle;*
- (c) The date on which the consignment contract is entered into;*
- (d) The period that the off-highway vehicle is to be consigned;*
- (e) The minimum agreed upon sales price for the off-highway vehicle;*
- (f) The approximate amount of money due any lienholder or other person known to have an interest in the off-highway vehicle;*
- (g) If the off-highway vehicle is sold, the date on which the off-highway vehicle is sold;*
- (h) The date that the money due the consignor and the lienholder was paid;*
- (i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and*
- (j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.*

7. A person who:

(a) Appropriates, diverts or otherwise converts to his own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 24. 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of sections 24 to 47, inclusive, of this act shall submit to the Department 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 Department 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

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of sections 24 to 47, inclusive, of this act 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 Department 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.

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 25. 1. If the Department 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 issued pursuant to sections 24 to 47, inclusive, of this act, the Department 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 Department 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 Department shall reinstate an occupational license issued pursuant to the provisions of this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Department 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.

Sec. 26. 1. *Except as otherwise provided in subsection 2, a person shall not engage in the activities of a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer in this State until he has been issued:*

(a) *A license or permit to act as a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer, or a similar license or permit, by every city within whose corporate limits he maintains an established place of business and by every county in which he maintains an established place of business outside the corporate limits of a city; and*

(b) *A license by the Department. The Department shall not issue a license to the person until he has been issued all licenses and permits required by paragraph (a).*

2. *A person licensed as an off-highway vehicle dealer pursuant to this chapter shall not engage in the activities of a new off-highway vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale the off-highway vehicles produced or distributed by that manufacturer.*

3. *A license for an off-highway vehicle dealer or manufacturer issued pursuant to this chapter does not permit a person to engage in the business of buying, selling or leasing or manufacturing motor vehicles or trailers governed pursuant to the laws and regulations established in chapter 482 of NRS.*

4. *The Department shall investigate any applicant for a license as an off-highway vehicle dealer, long-term or short-term lessor or manufacturer and shall complete an investigation report on a form provided by the Department.*

5. *A person who violates subsection 1 or 2 is guilty of:*

(a) *For a first offense, a misdemeanor.*

(b) *For a second offense, a gross misdemeanor.*

(c) *For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.*

Sec. 27. 1. *Except as otherwise provided in subsections 2 and 3, every off-highway vehicle dealer, long-term or short-term lessor and manufacturer who is licensed by the Department to do business in this State shall maintain an established place of business in this State which:*

(a) *Includes a permanent enclosed building, owned in fee or leased, with sufficient space to display one or more off-highway vehicles which the off-highway vehicle dealer, lessor or manufacturer is licensed to sell, lease or manufacture; and*

(b) *Is principally used by the licensee to conduct his business.*

2. *Every new and used off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall maintain an established place of business in this State which has:*

(a) In addition to sufficient customer and employee parking, adequate usable space to display one or more off-highway vehicles offered for sale or lease from his established place of business;

(b) Except for businesses licensed pursuant to this chapter or chapter 482 of NRS and owned by a single principal or group of principals, physical boundaries which are clearly marked that physically separate the licensee's established place of business from any other adjacent place of business; and

(c) A permanent enclosed building large enough to accommodate an office but not less than 100 square feet of usable floor space to accommodate his business office and provide a safe place to keep and store the books and other records of his business.

3. A short-term off-highway vehicle lessor shall:

(a) Designate his principal place of business as his established place of business and each other location where he conducts business as a branch that is operated pursuant to the license for the principal place of business.

(b) Notify the Department of each branch at which he conducts business by filing, on forms provided by the Department, such information pertaining to each branch as required by the Department.

Sec. 28. 1. An application for a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer must be filed upon forms supplied by the Department and include the social security number of the applicant. The forms must designate the persons whose names are required to appear thereon. The applicant must furnish:

(a) Such proof as the Department may deem necessary that the applicant is an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(b) A fee of \$125.

(c) A fee for the processing of fingerprints. The Department shall establish by regulation the fee for processing fingerprints. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

(d) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(e) If the applicant is a natural person, the statement required pursuant to section 24 of this act.

(f) A certificate of insurance for liability.

2. Upon receipt of the application and when satisfied that the applicant is entitled thereto, the Department shall issue to the applicant a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer containing the name of the licensee and the address of his

established place of business or the address of the main office of a manufacturer without an established place of business in this State.

3. Licenses issued pursuant to this section expire on December 31 of each year. Before December 31 of each year, a licensee must furnish the Department with an application for renewal of his license accompanied by an annual fee of \$50. If the applicant is a natural person, the application for renewal also must be accompanied by the statement required pursuant to section 24 of this act. The additional fee for the processing of fingerprints, established by regulation pursuant to paragraph (c) of subsection 1, must be submitted for each applicant whose name does not appear on the original application for the license. The renewal application must be provided by the Department and contain information required by the Department.

Sec. 29. The Director shall, before renewing any occupational license issued pursuant to this chapter, consider:

1. The number and types of complaints received against an off-highway vehicle dealer, long-term or short-term lessor or manufacturer by the Department; and

2. Any administrative fines imposed upon the off-highway vehicle dealer, lessor or manufacturer by the Department pursuant to this chapter, and may require the dealer, lessor or manufacturer to provide a good and sufficient bond in the amount set forth in subsection 1 of section 40 of this act for each category of off-highway vehicle sold at each place of business and in each county in which the dealer, lessor or manufacturer is licensed to do business.

Sec. 30. Evidence of unfitness of an applicant for or a licensee of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for the purposes of denial or revocation of a license may consist of, but is not limited to:

1. Failure to discharge a lienholder on an off-highway vehicle within 30 days after it is traded to his dealership.

2. Being the former holder of or being a partner, officer, director, owner or manager involved in management decisions of an off-highway vehicle dealership which held a license issued pursuant to section 28 of this act or of an occupational license issued pursuant to chapter 482 of NRS which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of any taxes or fees in connection with the sale or transfer of an off-highway vehicle.

4. Forging the signature of the registered or legal owner of an off-highway vehicle on a certificate of title.

5. Purchasing, selling, otherwise disposing of or having in his possession any off-highway vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

6. *Willfully failing to deliver to a purchaser or his lienholder a certificate of title to an off-highway vehicle he has sold.*

7. *Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files which are required to be maintained within the State.*

8. *Any fraud which includes, but is not limited to:*

(a) *Misrepresentation in any manner, whether intentional or grossly negligent, of a material fact.*

(b) *An intentional failure to disclose a material fact.*

9. *Willful failure to comply with any regulation adopted by the Department.*

10. *Knowingly submitting or causing to be submitted any false, forged or otherwise fraudulent document to the Department to obtain a lien, title or certificate of ownership or any duplicate thereof for an off-highway vehicle.*

11. *Knowingly causing or allowing a false, forged or otherwise fraudulent document to be maintained as a record of his business.*

12. *Violating any provisions of this chapter which involve the sale or transfer of an interest in an off-highway vehicle.*

Sec. 31. *An off-highway vehicle dealer, long-term or short-term lessor or manufacturer licensed under the provisions of this chapter shall post his license, and all licenses issued to persons in his employ who are licensed as off-highway vehicle salesmen pursuant to the provisions of this chapter, in a conspicuous place clearly visible to the general public at the location described in the license.*

Sec. 32. *Except as otherwise provided in subsection 2 of section 10 of this act, the following activities are prima facie evidence that a person is engaged in the activities of an off-highway vehicle dealer:*

1. *A person displays for sale, sells or offers for sale any off-highway vehicle which he does not personally own;*

2. *A person demonstrates, or allows the demonstration or operation of, any off-highway vehicle for the purpose of sale or future sale or as an inducement to purchase the vehicle; or*

3. *A person engages in an activity specified by subsection 1 of section 10 of this act or any other act regarding an off-highway vehicle which would lead a reasonable person to believe that he may purchase that off-highway vehicle or a similar off-highway vehicle from the person.*

Sec. 33. 1. *An off-highway vehicle dealer shall inform the Department of the location of each place at which he conducts any business and the name under which he does business at each location.*

2. *If an off-highway vehicle dealer does business at more than one location, he shall designate one location in each county in which he does business as his principal place of business for that county and one name as the principal name of his business. He shall designate all of his other*

business locations not otherwise designated as a principal place of business pursuant to this subsection as branches.

3. An off-highway vehicle dealer who maintains a principal place of business and one or more businesses designated as branches may operate those branches under the authority of the license issued by the Department to the principal place of business under the following conditions:

(a) The principal and branch locations are owned and operated by the same principal or group of principals listed on the records of the Department for the principal place of business;

(b) The sales activities conducted at a branch location are the same as those authorized by the Department at the principal place of business;

(c) The principal place of business and each branch location are located within the same county;

(d) The principal place of business and each branch location maintain the appropriate city or county license;

(e) The closest boundary of a branch location is not more than 500 feet from the principal place of business;

(f) The business sign displayed at each branch location meets the requirements of section 39 of this act and is essentially the same in name, style and design as that of the principal place of business;

(g) Sales transactions originating at a branch location are culminated, and the records of the transaction maintained, at the principal place of business; and

(h) The off-highway vehicle dealer provides all documentation which the Department deems necessary to ensure that each business location is operated in accordance with the provisions of this chapter and all other applicable laws and regulations established for the operation of an off-highway vehicle sales business in this State.

4. If an off-highway vehicle dealer changes the name or location of any of his established places of business, he shall not conduct business as an off-highway vehicle dealer under the new name or at the new location until he has been issued a license for the new name or location from the Department.

Sec. 34. 1. An off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall keep his books and records for all locations at which he does business within a county at his principal place of business in that county.

2. Each off-highway vehicle dealer, lessor and manufacturer shall:

(a) Permit any authorized agent of the Director or the State of Nevada to inspect and copy the books and records during usual business hours; or

(b) Not later than 3 business days after receiving a request from such a person for the production of the books and records or any other information, provide the requested books, records and other information to the person at the location specified in the request.

3. *An off-highway vehicle dealer, lessor and manufacturer shall retain his books and records for 3 years after he ceases to be licensed as an off-highway vehicle dealer, lessor or manufacturer.*

Sec. 35. 1. *If an off-highway vehicle dealer or long-term lessor has one or more branches, he shall procure from the Department a license for each branch, in addition to the license issued for his principal place of business.*

2. *The Department shall specify on each license it issues:*

(a) *The name of the licensee;*

(b) *The location for which the license is issued; and*

(c) *The name under which the licensee does business at that location.*

3. *Each off-highway vehicle dealer and lessor shall post each license issued to him by the Department in a conspicuous place clearly visible to the general public at the location described in the license.*

4. *The Department shall, by regulation, provide for the issuance of a temporary license for a licensed off-highway vehicle dealer to conduct business at a temporary location. Any such regulations must include the imposition of a reasonable fee for the issuance of the temporary license.*

Sec. 36. *Except as otherwise provided in section 41 of this act, the Department or any other agency of this State shall not require that an off-highway vehicle dealer have his signature acknowledged before a notary public or any other person authorized to take acknowledgments in this State on any document the off-highway vehicle dealer is required to file with the Department or agency.*

Sec. 37. *Each off-highway vehicle dealer who advertises that the Spanish language is spoken at his place of business or who conducts business by communicating in Spanish with a purchaser or prospective purchaser regarding the potential purchase of an off-highway vehicle shall, upon the request of a purchaser or prospective purchaser of an off-highway vehicle with whom the off-highway vehicle dealer or his agent is communicating or has communicated in Spanish as a part of the preliminary discussions and negotiations regarding the purchase or potential purchase of the off-highway vehicle, allow the purchaser or prospective purchaser to view the version of the forms for the application for credit and contracts to be used in the sale of off-highway vehicles which have been translated into Spanish pursuant to subsection 3 of NRS 97.299.*

Sec. 38. *If a licensed off-highway vehicle dealer takes an off-highway vehicle in trade on the purchase of another off-highway vehicle and there is an outstanding security interest, the licensed off-highway vehicle dealer shall satisfy the outstanding security interest within 30 days after the off-highway vehicle is taken in trade on the purchase of the other off-highway vehicle.*

Sec. 39. 1. *Except as otherwise provided in subsection 2, at each of his established places of business, each off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall permanently affix a sign*

containing the name of his business in lettering of sufficient size to be clearly legible from the center of the nearest street or roadway, except that the lettering must be at least 8 inches high and formed by lines that are at least 1 inch wide.

2. Upon approval of the Director, and in accordance with all other city and county ordinances, an off-highway vehicle dealer or a long-term or short-term lessor may be exempted from the requirements of subsection 1 if:

(a) His established place of business or branch location is located within the confines of another business;

(b) The other place of business is the primary business at that location; and

(c) The primary business is not licensed pursuant to any provision of this chapter.

Sec. 40. 1. Before any off-highway vehicle dealer, long-term or short-term lessor or manufacturer is issued a license pursuant to this chapter, the Department shall require that the applicant procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General and conditioned that the applicant or any employee who acts on his behalf within the scope of his employment shall conduct his business as an off-highway vehicle dealer, lessor or manufacturer without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation and without violation of the provisions of this chapter. The bond must be in the amount of \$50,000.

2. The Department may, pursuant to a written agreement with any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of the bond of the off-highway vehicle dealer, lessor or manufacturer if his business has been conducted in a manner satisfactory to the Department for the preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter by the representative of any licensed representative or salesman of any licensed off-highway vehicle dealer, long-term or short-term lessor or manufacturer who acts for the off-highway vehicle dealer, lessor or manufacturer on his behalf and within the scope of the employment of the representative or the salesman.

5. *The bond must provide that any person injured by the action of the off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesman in violation of any provision of this chapter may apply to the Director, for good cause shown, for compensation from the bond. The surety issuing the bond shall appoint the Secretary of State as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.*

6. *If a person is injured by the actions of an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesman, the person may:*

(a) Bring and maintain an action in any court of competent jurisdiction.

If the court enters:

(1) A judgment on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman, the judgment is binding on the surety.

(2) A judgment other than on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the off-highway vehicle dealer, lessor, manufacturer, representative or salesman. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. *Any judgment entered by a court against an off-highway vehicle dealer, long-term or short term lessor, manufacturer, representative or off-highway vehicle salesman may be executed through a writ of attachment, garnishment, execution or other legal process, or the person in whose favor the judgment was entered may apply to the Director for compensation from the bond of the off-highway vehicle dealer, lessor, manufacturer, representative or salesman.*

8. *The Department shall not issue a license pursuant to subsection 1 to an off-highway vehicle dealer, long-term or short term lessor or*

manufacturer who does not have and maintain an established place of business in this State.

Sec. 41. 1. *In lieu of a bond, an applicant may deposit with the Department, under terms prescribed by the Department:*

(a) A like amount of lawful money of the United States or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by NRS 482.345 and indicate that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the amount accrues to the account of the applicant.

2. *A deposit made pursuant to subsection 1 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:*

(a) A court order requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person or persons under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

3. *When a deposit is made pursuant to subsection 1, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding court judgment for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:*

(a) Files an additional bond pursuant to subsection 1 of section 40 of this act;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

4. *A deposit made pursuant to subsection 1 may be refunded:*

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

5. Any money received by the Department pursuant to subsection 1 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 42. 1. The bond required by section 40 of this act must cover the licensee's principal place of business and all branches operated by him, including, without limitation, any place of business operated in this State by the licensee that is located outside the county of the licensee's principal office or any place of business operated by the licensee under a different name.

2. In addition to the coverage provided by the licensee's bond pursuant to subsection 1, the licensee shall procure a separate bond for:

(a) Each place of business operated in this State by the licensee that is located outside the county of the licensee's principal office; and

(b) Each place of business operated by the licensee under a different name.

Sec. 43. 1. A new off-highway vehicle dealer's license must not be furnished to any off-highway vehicle dealer in new off-highway vehicles unless the off-highway vehicle dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised off-highway vehicle dealer for the make or makes of off-highway vehicles concerned. New off-highway vehicle dealers are authorized to sell at retail only those new off-highway vehicles for which they are certified as franchised off-highway vehicle dealers by the manufacturer.

2. In addition to selling used off-highway vehicles, a used off-highway vehicle dealer may:

(a) Sell at wholesale a new off-highway vehicle taken in trade or acquired as a result of a sales contract to a new off-highway vehicle dealer who is licensed and authorized to sell that make of vehicle;

(b) Sell at wholesale a new off-highway vehicle through a wholesale vehicle auction if the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the off-highway vehicle; and

(2) Auctions the off-highway vehicle to an off-highway vehicle dealer who is licensed and authorized to sell that make of off-highway vehicle; or

(c) Sell a new off-highway vehicle on consignment from a person not licensed as an off-highway vehicle dealer or long-term or short-term lessor.

Sec. 44. 1. No off-highway vehicle dealer, long-term or short-term lessor or manufacturer may employ "bait and switch" advertising or otherwise intentionally publish, display or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold, leased, manufactured, handled or furnished to the public.

2. The Director shall adopt such regulations as may be necessary for making the administration of this section effective.

3. *As used in this section, “bait and switch” advertising consists of an offer to sell or lease goods or services which the seller or lessor in truth may not intend or desire to sell or lease, accompanied by one or more of the following practices:*

- (a) Refusal to show the goods advertised.*
- (b) Disparagement in any material respect of the advertised goods or services or the terms of sale or lease.*
- (c) Requiring other sales or leases or other undisclosed conditions to be met before selling or leasing the advertised goods or services.*
- (d) Refusal to take orders for the goods or services advertised for delivery within a reasonable time.*
- (e) Showing or demonstrating defective goods which are unusable or impractical for the purposes set forth in the advertisement.*
- (f) Accepting a deposit for the goods or services and subsequently switching the purchase order to higher-priced goods or services.*

Sec. 45. 1. *The Department may deny the issuance of, suspend or revoke a license to engage in the activities of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer in new or used off-highway vehicles in this State upon any of the following grounds:*

- (a) Failure of the applicant to have an established place of business in this State.*
- (b) Conviction of a felony in the State of Nevada or any other state, territory or nation.*
- (c) Material misstatement in the application.*
- (d) Evidence of unfitness of the applicant or licensee.*
- (e) Willful failure to comply with any of the provisions of the laws of the State of Nevada or the directives of the Director. For the purpose of this paragraph, failure to comply with the directives of the Director advising the licensee of his noncompliance with any provision of the laws of this State or regulations of the Department, within 10 days after receipt of the directive, is prima facie evidence of willful failure to comply with the directive.*
- (f) Failure or refusal to furnish and keep in force any bond.*
- (g) Failure on the part of the licensee to maintain a fixed place of business in this State.*
- (h) Failure or refusal by a licensee to pay or otherwise discharge any final judgment against the licensee rendered and entered against him, arising out of the misrepresentation of any off-highway vehicle or out of any fraud committed in connection with the sale of any off-highway vehicle.*
- (i) Failure of the licensee to maintain any other license or bond required by any political subdivision of this State.*
- (j) Allowing an unlicensed off-highway vehicle salesman to sell or lease any off-highway vehicle or to act in the capacity of an off-highway vehicle salesman as defined in this chapter.*

(k) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 3.

(l) Engaging in a deceptive trade practice relating to the purchase and sale or lease of an off-highway vehicle.

2. The Director may deny the issuance of a license to an applicant or revoke a license already issued if the Department is satisfied that the applicant or licensee is not entitled thereto.

3. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the activities of an off-highway vehicle dealer, long-term or short term lessor or manufacturer, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to the authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to the authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to sections 24 to 47, inclusive, of this act or to determine the suitability of an applicant or a licensee for such licensure.

4. The Department may adopt regulations establishing additional criteria that may be used to deny, suspend, revoke or refuse to renew a license issued pursuant to this chapter.

Sec. 46. 1. Except as otherwise provided in subsection 5, an applicant or licensee may, within 30 days after receipt of the notice of denial, suspension or revocation, petition the Director in writing for a hearing.

2. Subject to the further requirements of subsection 3, the Director shall make written findings of fact and conclusions and grant or finally deny the application or revoke the license within 15 days after the hearing unless by interim order he extends the time to 30 days after the hearing. If the license has been temporarily suspended, the suspension expires not later than 15 days after the hearing.

3. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, he may temporarily suspend or refuse to renew the license issued to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for a period not to exceed 30 days. A hearing must be held, and a final decision rendered, within 30 days after notice of the temporary suspension.

4. The Director may issue subpoenas for the attendance of witnesses and the production of evidence.

5. The provisions of this section do not apply to an applicant for a temporary permit to engage in the activity of an off-highway vehicle salesman.

Sec. 47. 1. A person shall not engage in the activity of a salesman of off-highway vehicles or act in the capacity of an off-highway vehicle salesman as defined in this chapter in the State of Nevada without first having received a license or temporary permit from the Department.

2. A license to act as an off-highway vehicle salesman must be issued in accordance with the provisions for the licensing of vehicle salesmen as defined in chapter 482 of NRS.

3. A person who has received a license issued pursuant to the provisions of chapter 482 of NRS must be licensed to act as a salesman of vehicles defined in chapter 482 of NRS and as an off-highway vehicle salesman as defined in this chapter.

4. All requirements, restrictions and penalties applicable to a vehicle salesman licensed pursuant to the provisions of chapter 482 of NRS apply without exception to off-highway vehicle salesmen.

Sec. 48. 1. It is a gross misdemeanor for any person knowingly to falsify:

(a) An off-highway vehicle dealer's report of sale, as described in section 50 of this act; or

(b) An application or document to obtain any license, permit, certificate of title or registration issued under the provisions of this chapter.

2. ~~##~~ Except as otherwise provided in subsection 3, it is a misdemeanor for any person to violate any of the provisions of this chapter unless ~~such~~ the violation is by this section or other provision of this chapter or other law of this State declared to be a gross misdemeanor or a felony.

3. Any person who violates a provision of this chapter relating to the registration or operation of an off-highway vehicle is guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.

Sec. 49. 1. The Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of sections 22 to 52, inclusive, of this ~~chapter~~ act or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

3. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any rule, regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 50. *1. When a new or used off-highway vehicle is sold or leased in this State for the first time, the seller or lessor of the off-highway vehicle shall, unless a new off-highway vehicle is sold to an off-highway vehicle dealer who is licensed to sell the make of off-highway vehicle being sold, complete and execute an off-highway vehicle dealer's report of sale.*

2. The form, content and disposition of the off-highway vehicle dealer's report of sale must be prescribed by regulation adopted by the Department.

Sec. 51. *When a used off-highway vehicle is sold in this State by a person who is not an off-highway vehicle dealer, the seller or buyer or both of them shall, within 10 days after the sale:*

1. Submit to the Department:

(a) If a certificate of title has been issued in this State, the certificate properly endorsed.

(b) If a certificate of title or other document of title has been issued by a public authority of another state, territory or country:

(1) The certificate or document properly endorsed; and

(2) A statement containing, if not included in the endorsed certificate or document, the description of the off-highway vehicle, including the names and addresses of the buyer and seller and the name and address of any person who takes or retains a purchase money security interest. Any such statement must be signed and acknowledged by the seller and the buyer.

(c) If no document of title has been issued by any public authority, a statement containing all the information and signed and acknowledged in the manner required by subparagraph (2) of paragraph (b).

2. Remit to the Department any fee for the processing of an endorsed certificate of title or statement submitted to the Department pursuant to this section.

Sec. 52. *Any person is guilty of a gross misdemeanor who knowingly:*

1. Makes or causes to be made any false entry on any certificate of origin or certificate of title for an off-highway vehicle;

2. Furnishes or causes to be furnished false information to the Department concerning any security interest; or

3. Fails to submit or causes to not be submitted the original of the off-highway vehicle dealer's or long-term lessor's report of sale or lease, together with the certificate of title or certificate of ownership issued for a new or used off-highway vehicle to the Department within the time prescribed by regulation adopted by the Department.

Sec. 53. NRS 490.010 is hereby amended to read as follows:

490.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 490.020 to 490.060, inclusive, **and sections 4 to 11, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 54. NRS 490.020 is hereby amended to read as follows:

490.020 "Authorized dealer" means a dealer authorized by the Department to ~~issue~~ **receive and submit to the Department applications for the issuance of** certificates of ~~operation~~ **title for , and registrations of,** off-highway vehicles pursuant to NRS 490.070.

Sec. 55. NRS 490.060 is hereby amended to read as follows:

490.060 1. "Off-highway vehicle" means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

- (a) An all-terrain vehicle;
- (b) An all-terrain motorcycle;
- (c) A dune buggy;
- (d) A snowmobile; and
- (e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

- (a) A motor vehicle designed primarily for use in water;
- (b) A motor vehicle that is registered by the Department ; ~~of Motor Vehicles; or~~

(c) A low-speed vehicle as defined in NRS 484.527 ~~[-]~~ ; **or**

(d) **Special mobile equipment, as defined in NRS 482.123.**

Sec. 56. NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of ~~a dealer of~~ **an** off-highway ~~vehicles,~~ **vehicle dealer,** the Department may authorize the **off-highway vehicle** dealer to ~~issue~~ **receive and submit to the Department applications for the:**

(a) **Issuance of** certificates of ~~operation~~ **title and registration** for off-highway vehicles ~~pursuant to subsection 3.~~

~~2. Each certificate of operation for an off highway vehicle issued by an authorized dealer must be in the form of a sticker approved by the Department.~~

~~3.] ; and~~

(b) **Renewal of registration for off-highway vehicles.**

2. An authorized dealer shall:

(a) ~~Upon the sale of an off highway vehicle, issue to the purchaser of the off highway vehicle a certificate of operation for the off highway vehicle;~~

(b) ~~Upon request, issue a certificate of operation to a person who purchased the off highway vehicle before January 1, 2006;~~

(c) ~~Issue a certificate of operation to the owner of an off highway vehicle that was purchased outside this State on or after January 1, 2006, if the owner:~~

~~(1) Requests the certificate of operation; and~~

~~(2) Pays or submits evidence satisfactory to the authorized dealer that he has paid all taxes applicable in this State to the purchase of the off highway vehicle or submits an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off highway vehicle;] **Except as otherwise provided in paragraph (b) and subsection 4, submit to the State Treasurer for allocation to the**~~

Department or to the Fund all fees collected by the authorized dealer from each applicant and properly account for those fees each month;

(b) Submit to the State Treasurer for deposit into the Fund all fees charged and collected and required to be deposited in the Fund pursuant to section 14 of this act;

~~[(d)]~~ *(c) Comply with the regulations adopted pursuant to subsection ~~[(6)]~~ 5; and*

~~[(e)]~~ *(d) Bear any cost of equipment which is required to ~~issue certificates of operation,~~ receive and submit to the Department the applications described in subsection 1, including any computer software or hardware.*

~~[4. An]~~

3. Except as otherwise provided in subsection 4, an authorized dealer is not entitled to receive compensation ~~[from the Department]~~ for the performance of ~~[those services.] any services pursuant to this section.~~

~~[(5)]~~ *4. An authorized dealer ~~[shall not charge or]~~ may charge and collect a fee of not more than \$2 for ~~[issuing]~~ each application for a certificate of ~~[operation.~~*

~~[(6)]~~ *title or registration received by the authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.*

5. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of :

(1) Forms for applying for the issuance of ~~[operation]~~ title for, or registration of, off-highway vehicles;

(2) Certificates of title and registration by the Department to ~~[authorized dealers; and]~~ each applicant whose application is approved by the Department; and

(3) Renewal notices for registrations before the date of expiration of the registrations;

(b) The renewal of registrations by mail or Internet;

(c) The collection of a fee of not less than \$20 or more than \$30 for the renewal of a registration of an off-highway vehicle;

(d) The submission by mail or electronic transmission to the Department of an application for:

(1) The issuance of a certificate of title for, or registration of, an off-highway vehicle; or

(2) The renewal of registration of an off-highway vehicle;

(e) The replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal; and

(f) The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.

Sec. 57. NRS 490.100 is hereby amended to read as follows:

490.100 1. Except as otherwise provided in subsection 2, a city or county may designate any portion of a highway within the city or county as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. If a city or county designates any portion a state highway as permissible for the operation of off-highway vehicles pursuant to this subsection, the city or county must obtain approval for the designation from the Department . ~~of Transportation.~~ The Department ~~of Transportation~~ shall issue a timely decision concerning the request for approval and must not unreasonably deny the request.

2. The highway designated for operation of off-highway vehicles pursuant to subsection 1 may not consist of any portion of an interstate highway.

3. If a city or county designates a highway for the operation of off-highway vehicles, the city or county may adopt an ordinance requiring a person who is less than 16 years of age and who is operating the off-highway vehicle on a designated highway to be under the direct visual supervision of a person who is at least 18 years of age.

4. A person operating an off-highway vehicle on a highway designated for operation of off-highway vehicles pursuant to subsection 1 may not operate the off-highway vehicle on the highway for any purpose other than to travel to or from the private or public area as described in subsection 1.

Sec. 58. NRS 490.130 is hereby amended to read as follows:

490.130 The operator of an off-highway vehicle that is being driven on a highway in this State in accordance with NRS 490.090 to 490.130, inclusive, shall:

1. Comply with all traffic laws of this State;
2. Ensure that the ~~certificate of operation for~~ **registration of** the off-highway vehicle is attached to the vehicle in accordance with ~~NRS 490.080;~~ **section 13 of this act;** and
3. Wear a helmet.

Sec. 58.3. NRS 41.440 is hereby amended to read as follows:

41.440 Any liability imposed upon a wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family arising out of his or her driving and operating a motor vehicle ~~upon a highway~~ with the permission, express or implied, of such owner is hereby imposed upon the owner of the motor vehicle, and such owner shall be jointly and severally liable with his or her wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family for any damages proximately resulting from such negligence or willful misconduct, and such negligent or willful misconduct shall be imputed to the owner of the motor vehicle for all purposes of civil damages.

Sec. 58.7. NRS 104A.2104 is hereby amended to read as follows:

104A.2104 1. A lease, although subject to this Article, is also subject to any applicable:

(a) Certificate of title statute of this State, including any applicable provision of chapters 482, 488 ~~and~~ 489 **and 490** of NRS;

(b) Certificate of title statute of another jurisdiction (NRS 104A.2105); or

(c) Consumer protection statute of this State, including any applicable provision of NRS 97.297, 97.299, 97.301 and 100.095 to 100.175, inclusive, and a final decision of a court of this State concerning the protection of consumers rendered before January 1, 1990.

2. In case of conflict between this Article, other than NRS 104A.2105, subsection 3 of NRS 104A.2304 and subsection 3 of NRS 104A.2305, and a statute or decision referred to in subsection 1, the statute or decision controls.

3. Failure to comply with an applicable law has only the effect specified therein.

Sec. 59. NRS 490.030 and 490.080 are hereby repealed.

Sec. 60. An owner of an off-highway vehicle who obtained a certificate of operation for an off-highway vehicle before ~~July 1, 2010,~~ **the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act** shall ~~on or before June 30, 2011,~~ **within 1 year after that date,** register the off-highway vehicle pursuant to the provisions of section 12 of this act.

Sec. 61. 1. Any off-highway vehicle dealer who is an authorized dealer pursuant to NRS 490.070 before ~~July 1, 2010,~~ **the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act** shall be deemed to be an authorized dealer by the Department of Motor Vehicles pursuant to ~~that section,~~ **NRS 490.070,** as amended by section 56 of this act.

2. The regulations adopted by the Department of Taxation pursuant to NRS 490.070 become the regulations of the Department of Motor Vehicles on ~~July 1, 2010,~~ **the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act** and, to the extent that the regulations are consistent with the amendatory provisions of this act, remain in effect until amended or repealed by the Department of Motor Vehicles.

Sec. 62. 1. As soon as practicable after ~~the effective date of this section,~~ **passage and approval of this act,** the Governor shall solicit applications for the appointment of the members of the Commission on Off-Highway Vehicles created by section 16 of this act.

2. As soon as practicable after July 1, ~~2009,~~ **2010,** the Governor shall, after considering each application received pursuant to subsection 1, appoint the members of the Commission on Off-Highway Vehicles who are qualified pursuant to section 16 of this act to initial terms as follows:

(a) Four members to terms that expire on January 1, ~~2011,~~ **2012.**

(b) Four members to terms that expire on January 1, ~~2012,~~ **2013.**

(c) Three members to terms that expire on January 1, ~~2013,~~ **2014.**

Sec. 62.5. As soon as practicable after determining that at least \$500,000 is available in the Revolving Account for the Assistance of the

Department created by section 19.5 of this act to enable the Department of Motor Vehicles to administer the provisions of chapter 490 of NRS, as amended by this act, relating to the registration of off-highway vehicles, the Interim Finance Committee shall notify the Department of that fact. Upon receipt of the notice, the Department shall ensure that notice of the determination of the Interim Finance Committee is made available to the members of the public.

Sec. 63. 1. This ~~fact becomes~~ section and sections 19.5 and 62.5 of this act become effective upon passage and approval.

2. Sections 1 to 19, inclusive, and 20 to 62, inclusive, of this act become effective:

(a) Upon passage and approval for purposes of:

(1) The appointment by the Governor of the members of the Commission on Off-Highway Vehicles created by section 16 of this act; and

(2) The adoption of regulations to carry out the provisions of this act.

(b) On July 1, ~~2010,~~ 2011, or 1 year after the date the Interim Finance Committee issues a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act, whichever occurs first, for all other purposes.

~~{ 2—Sections }~~

3. This section and sections 1 to 62.5, inclusive, of this act expire by limitation on July 1, 2011, if the Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act before that date.

4. Except as otherwise provided in subsection 3, sections 24 and 25 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or 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 SECTIONS

490.030 "Department" defined. "Department" means the Department of Taxation.

490.080 Prerequisite to operation of vehicle on highway; attachment to vehicle; replacement; transferability; exceptions.

1. Except as otherwise provided in subsection 4, a person shall not operate an off-highway vehicle on a highway pursuant to NRS 490.090 to 490.130, inclusive, unless he has:

(a) Obtained a certificate of operation for the off-highway vehicle; and

(b) Attached the certificate to the off-highway vehicle in the manner specified by the Department.

2. If a certificate of operation for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may request a new certificate of operation from an authorized dealer.

3. If the owner of an off-highway vehicle sells or otherwise transfers ownership of the off-highway vehicle, the certificate of operation remains valid.

4. A certificate of operation is not required for an off-highway vehicle which:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles;

(c) Is registered or certified in another state and is located in this State for not more than 90 days;

(d) Is used solely for husbandry on private land or on public land that is leased to the owner or operator of the off-highway vehicle; or

(e) Is used for work conducted by or at the direction of a public or private utility.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 73 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. 94.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Senate Bill No. 94:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 94 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 183 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Smith moved that Senate Bill No. 137 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 137.

Bill read third time.

The following amendment was proposed by Assemblymen Bobzien and Smith:

Amendment No. 846.

AN ACT relating to recycling; providing for the placement of recycling containers on the premises of certain apartment complexes, condominiums and the Nevada System of Higher Education and its branches and facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of county commissioners in a county whose population is 100,000 or more (currently Clark and Washoe Counties) is required to make available for use in that county a program for separating recyclable material from other solid waste originating from certain residential premises and public buildings. Existing law authorizes certain other counties and municipalities to provide such a program. (NRS 444A.040) **Section 7** of this bill provides for the inclusion of provisions concerning the placement of recycling containers on the premises of apartment complexes and condominiums in the recycling programs of those counties and municipalities.

Existing law authorizes each board of county commissioners in this State to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675) Existing law confers similar authority upon the governing body of an incorporated city in this State. (NRS 268.413) **Section 11** of this bill prohibits a board of county commissioners of a county or a governing body of a city from approving, on or after October 1, 2009, any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

Existing law requires the Board of Regents of the University of Nevada to prescribe procedures for the recycling of paper and paper products used by the Nevada System of Higher Education and requires the Board of Regents to pay any money received by the System for recycling those products to the State Treasurer for credit to the State General Fund. (NRS 396.437) **Section 14** of this bill requires the Board to prescribe procedures for the recycling of

other waste materials, including, without limitation, the placement of recycling containers on the premises of the System or any of its branches or facilities where services for the collection of solid waste are provided. **Section 14** also requires the money received by the System for recycling those materials to be accounted for separately and used to carry out the provisions of that section.

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

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Apartment complex" means a building or group of buildings, each building of which ~~is arranged in several~~ consists of at least five units of connecting rooms, with each unit designed for independent housekeeping.***

Sec. 3. ***"Condominium" has the meaning ascribed to it in NRS 117.010.***

Sec. 4. NRS 444A.010 is hereby amended to read as follows:

444A.010 As used in NRS 444A.010 to 444A.080, inclusive, ***and sections 2 and 3 of this act***, unless the context otherwise requires, the words and terms described in NRS 444A.011 to 444A.017, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 444A.040 is hereby amended to read as follows:

444A.040 1. The board of county commissioners in a county whose population is 100,000 or more, or its designee, shall make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~the~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[-]~~, ***including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

(d) The encouragement of businesses to reduce solid waste and to separate at the source recyclable material from other solid waste. This program must, without limitation, make information regarding solid waste reduction and

recycling opportunities available to a business at the time the business applies for or renews a business license.

2. The board of county commissioners of a county whose population is 40,000 or more but less than 100,000, or its designee:

(a) May make available for use in that county a program for the separation at the source of recyclable material from other solid waste originating from ~~the~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[-]~~, ***including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) Shall make available for use in that county a program for:

(1) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program established pursuant to paragraph (a).

(2) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

3. The board of county commissioners of a county whose population is less than 40,000, or its designee, may make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~the~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[-]~~, ***including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

4. Any program made available pursuant to this section:

(a) Must not:

(1) Conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020; and

(2) Become effective until approved by the Department.

(b) May be based on the model plans adopted pursuant to NRS 444A.030.

5. The governing body of a municipality may adopt and carry out within the municipality such programs made available pursuant to this section as are deemed necessary and appropriate for that municipality.

6. Any municipality may, with the approval of the governing body of an adjoining municipality, participate in any program adopted by the adjoining municipality pursuant to subsection 5.

7. Persons residing on an Indian reservation or Indian colony may participate in any program adopted pursuant to subsection 5 by a municipality in which the reservation or colony is located if the governing body of the reservation or colony adopts an ordinance requesting such participation. Upon receipt of such a request, the governing body of the municipality shall make available to the residents of the reservation or colony those programs requested.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, **and section 11 of this act**, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 10. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, **and section 11 of this act**, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, ~~these~~ **those** fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 11. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On and after October 1, 2009, a governing body or its designee shall not approve any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

2. As used in this section:

(a) "Apartment complex" has the meaning ascribed to it in section 2 of this act.

(b) "Condominium" has the meaning ascribed to it in NRS 117.010.

(c) *”Major renovation” means the destruction or reconstruction of an apartment complex or condominium to an extent which exceeds 50 percent of the replacement value of the apartment complex or condominium.*

Sec. 12. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 11 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 13. NRS 278.460 is hereby amended to read as follows:

278.460 1. A county recorder shall not record any final map unless the map:

(a) Contains or is accompanied by the report of a title company and all the certificates of approval, conveyance and consent required by the provisions of NRS 278.374 to 278.378, inclusive, and by the provisions of any local ordinance; and

(b) Is 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 that the full amount of any deferred property taxes for the conversion of the property from agricultural use has been paid pursuant to NRS 361A.265.

2. The provisions of NRS 278.010 to 278.630, inclusive, *and section 11 of this act* do not prevent the recording, pursuant to the provisions of NRS 278.010 to 278.630, inclusive, and *section 11 of this act*, and any applicable local ordinances, of a map of any land which is not a subdivision, nor do NRS 278.010 to 278.630, inclusive, *and section 11 of this act* prohibit the recording of a map in accordance with the provisions of any statute requiring the recording of professional land surveyor’s records of surveys.

3. A county recorder shall accept or refuse a final map for recordation within 10 days after its delivery to him.

4. A county recorder who records a final map pursuant to this section shall, within 7 working days after he records the final map, provide to the county assessor at no charge:

(a) A duplicate copy of the final map and any supporting documents; or

(b) Access to the digital final map and any digital supporting documents.

The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

Sec. 14. NRS 396.437 is hereby amended to read as follows:

396.437 1. Except as otherwise provided in this section, the System shall recycle or cause to be recycled the paper and paper products it uses. This subsection does not apply to confidential documents if there is an additional cost for recycling those documents.

2. The System is not required to comply with the requirements of subsection 1 if the Board of Regents determines that the cost to recycle or cause to be recycled the paper and paper products used by the System or one

of its branches or facilities is unreasonable and would place an undue burden on the operations of the System, branch or facility.

3. The Board of Regents shall adopt regulations which prescribe the procedure for the disposition of the paper and paper products to be recycled. The Board of Regents ~~may~~ **shall** prescribe ~~the procedure~~ **procedures** for the recycling of other waste material produced on the premises of the System, a branch or a facility ~~]~~, **including, without limitation, the placement of recycling containers on the premises of the System, a branch or a facility where services for the collection of solid waste are provided.**

4. Any money received by the System for recycling or causing to be recycled the paper and paper products it uses **and other waste material it produces** must be ~~paid by the Board of Regents to the State Treasurer for credit to the State General Fund.]~~ **accounted for separately and used to carry out the provisions of this section.**

5. As used in this section:

(a) "Paper" includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(b) "Paper product" means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(c) **"Solid waste" has the meaning ascribed to it in NRS 444.490.**

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 363.

Bill read third time.

Remarks by Assemblymen Settlemeyer, Conklin, Hambrick, and Smith.

Roll call on Senate Bill No. 363:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settlemeyer, Stewart, Woodbury—13.

EXCUSED—Grady.

Senate Bill No. 363 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

In compliance with a notice given on a previous day, Assemblywoman Dondero Loop moved that the vote whereby Senate Bill No. 355 was refused passage be reconsidered.

Remarks by Assemblywoman Dondero Loop.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 119.

Bill read second time.

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

Amendment No. 777.

AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists; authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring law enforcement agencies to provide certain records to the Board or its Executive Director upon request; authorizing law enforcement agencies to redact certain confidential information from records provided to the Board or its Executive Director; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, massage therapists must be licensed by the Board of Massage Therapists. (Chapter 640C of NRS) **Sections 2, 3 and 11** of this bill require a massage therapist to display his original license, not a copy or replica, at each location where he practices massage therapy. (NRS 640C.450) **Section 3** prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying or replicating a license for the purpose of aiding or abetting an unlawful act; or (3) using or displaying a license that has been forged or counterfeited or has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

Sections 4 and 16 of this bill prohibit an unlicensed person from advertising as a massage therapist and prohibit a licensed person from using any false or misleading statements in advertising. (NRS 640C.910) **Sections 4 and 16** also prohibit an unlicensed person from having his name listed in a telephone directory under a heading such as "massage" which indicates or implies that he is licensed or qualified to practice massage therapy. **Sections 4 and 16** also authorize the Board to issue an order to cease and desist from engaging in unlawful advertising. **Sections 4, 18 and 19** of this bill contain provisions whereby the Board can have telephone numbers for any type of

telephone, messaging or paging service disconnected because they are included in unlawful advertising. (NRS 703.175, 707.355)

Existing law authorizes the Board to take disciplinary action by imposing administrative fines. (NRS 640C.710) **Section 14** of this bill provides that the Board may impose an administrative fine of not more than \$5,000 for each violation, unless a greater fine is required pursuant to **section 5** of this bill. **Section 5** requires the Board to impose, based on the number of violations, increasing administrative fines of not more than ~~(\$50,000)~~ **\$10,000** against a licensee who has engaged in or solicited sexual activity during a massage therapy session or has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during a massage therapy session.

Section 7 of this bill authorizes the Board to issue administrative citations for any statutory or regulatory violations relating to massage therapy and provides that an unlicensed person who fails to comply with a citation is guilty of a misdemeanor. A citation may include an order to: (1) pay an administrative fine; (2) correct a condition resulting from a violation; and (3) reimburse the Board for expenses incurred to investigate the violation. **Section 8** of this bill allows a person to request a hearing before the Board to contest an administrative citation.

Existing law provides for the temporary suspension of a massage therapy license without a prior hearing for a period of 15 or 30 days under certain exigent circumstances. (NRS 640C.720) Generally, procedural due process entitles a licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8) However, when exigent circumstances justify immediate action, a statute may provide for the temporary suspension of a license without a prior hearing if the statute requires a post-suspension administrative review where a hearing is held and a final decision is rendered as promptly as is practicable. (*Federal Deposit Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life Insurance Company v. Rottman*, 95 Nev. 654 (1979)) **Section 15** of this bill: (1) provides for the temporary suspension of a massage therapy license without a prior hearing for a period not to exceed ~~60~~ **30** days under certain exigent circumstances; (2) authorizes the licensee to request a post-suspension administrative review; and (3) requires the Board to hold a hearing and render a final decision as promptly as is practicable but not later than ~~60~~ **30** days after the date of the initial suspension. (NRS 640C.720)

Section 15 of this bill also authorizes the Board and its Executive Director to request from state and local law enforcement agencies records relating to any charge or citation against a massage therapist for a crime involving violence, prostitution or any other sexual offense and authorizes those law enforcement agencies to redact from those records certain information which the agencies deem confidential. (NRS 640C.720) **Sections 15 and 17** of this bill require a law enforcement agency to provide the requested records as

soon as reasonably practicable. (NRS 179A.100) **Section 15** also provides that the Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

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

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. 1. *"Original license" means the actual license which is issued to the licensee by the Board and which is current and valid.*

2. *The term does not include any photocopy print, photostat or other replica of such a license.*

Sec. 3. 1. *A person shall not:*

(a) *Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or*

(b) *For the purpose of aiding or abetting an unlawful act:*

(1) *Alter or attempt to alter a license to practice massage therapy; or*

(2) *Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.*

2. *A person shall not use or display a license to practice massage therapy that:*

(a) *Is not the original license issued to the person;*

(b) *Has been counterfeited or forged;*

(c) *Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or*

(d) *Has been issued to another person.*

3. *A person who violates any provision of this section is guilty of a misdemeanor.*

Sec. 4. 1. *A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.*

2. *A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist.*

3. *All advertising by a licensed massage therapist must include his name ~~and~~ and the name of his company, if applicable, ~~and the number of his license.~~ All advertising in a telephone directory or a newspaper must also include the number of his license.*

4. *A person who violates any provision of subsection 1 ~~or~~ or 2 ~~or 3~~ is guilty of a misdemeanor.*

5. If, after notice and a hearing as required by law, the Board determines that a person has willfully engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising. ~~and order the person to cause any telephone number included in the advertising to be disconnected from service.~~ The provisions of this subsection do not apply to any person whose license has been expired for less than 90 days or is temporarily suspended.

6. The Board may order any person convicted of a crime involving violence, prostitution or any other sexual offense to cause any telephone number included in the advertising to be disconnected from service. If the Board orders the person to cause any telephone number to be disconnected from service and the person fails to comply within 5 days after the date on which he is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) "Advertising" [includes, without limitation,] means the intentional placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "massage therapist" or "massage." ~~with or without any limiting qualifications.~~

(b) "Provider" means a provider of any type of telephone, messaging or paging service.

(c) "Provider of messaging or paging service" means an entity that provides any type of messaging or paging service to any type of communication device.

(d) "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.

(e) "Telephone number" means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 5. 1. In addition to any other actions authorized by NRS 640C.710, if after notice and a hearing as required by law, the Board ~~finds~~ determines that a licensee has engaged in or solicited sexual activity during the course of practicing massage on a person or has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during the course of practicing massage on a person, the Board shall:

(a) For a first violation, impose an administrative fine of not less than ~~[\$1,000]~~ \$100 and not more than ~~[\$50,000]~~ \$1,000;

(b) For a second violation, impose an administrative fine of not less than ~~[\$5,000]~~ \$250 and not more than ~~[\$50,000]~~ \$5,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than ~~[\$10,000]~~ \$500 and not more than ~~[\$50,000]~~ \$10,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

Sec. 6. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 7. 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine for each violation; and

(c) *An order to reimburse the Board for the amount of the expenses incurred to investigate each violation.*

2. *If the citation includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must:*

(a) *State the time permitted for compliance, which must not be less than 15 business days after the date on which the citation is ~~issued to~~ received by the person; and*

(b) *Describe, in specific detail, the action required to be taken.*

3. *If the citation is issued to a licensee and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine must not exceed the maximum amount authorized by NRS 640C.710 or section 5 of this act, as appropriate for each violation.*

4. *If the citation is issued to an unlicensed person and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:*

(a) *For a first violation, must not be less than \$100 and must not be more than \$1,000;*

(b) *For a second violation, must not be less than \$250 and must not be more than \$5,000; and*

(c) *For a third violation and for each additional violation, must not be less than \$500 and must not be more than \$10,000.*

5. *The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.*

6. *The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section or make satisfactory payment arrangements, as approved by the Board, within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.*

Sec. 8. 1. *If a person is issued a written administrative citation pursuant to section 7 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board:*

(a) *Not later than 15 business days after the date on which the citation is ~~issued to~~ received by the person; or*

(b) *If the Board, for good cause shown, extends the time allowed to file a written request for a hearing to contest the citation, on or before the later date specified by the Board.*

2. *If the person files a written request for a hearing to contest the citation within the time allowed pursuant to this section:*

(a) *The Board shall provide notice of and conduct the hearing in the same manner as other disciplinary proceedings; and*

(b) *At the hearing, the person may contest, without limitation:*

(1) *The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;*

(2) *The time allowed to take any corrective action ordered;*

(3) *The amount of any administrative fine ordered;*

(4) *The amount of any order to reimburse the Board for the expenses incurred to investigate the violation; and*

(5) *Whether any corrective action described in the citation is reasonable.*

3. *If the person does not file a written request for a hearing to contest the citation within the time allowed pursuant to this section, the citation shall be deemed a final order of the Board ~~and not subject to review by any court or agency.~~*

4. *For the purposes of this section, a citation shall be deemed to have been ~~issued to~~ received by a person ~~on~~*

(a) ~~The~~ *On the date on which the citation is personally delivered to the person; or*

(b) *If the citation is mailed, 3 days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.*

Sec. 9. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.060, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 10. NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; ~~and~~

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant ~~to~~; **and**

7. **Prescribe the form of a written administrative citation pursuant to section 7 of this act.**

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 *1. Each licensee shall display his original license in a conspicuous manner at each location where he practices massage therapy. If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.*

2. A licensee shall obtain a replacement of his original license from the Board if his:

- (a) Original license is destroyed, misplaced or mutilated; or*
- (b) Name or address as printed on the original license has changed.*

3. To obtain a replacement license, the licensee must:

(a) File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and

(b) Pay the fee prescribed by the Board pursuant to NRS 640C.520.

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 *1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:*

An examination established by the Board pursuant to this chapter	\$600
An application for a license	300
An application for a license without an examination.....	300
A background check of an applicant.....	600
The issuance of a license	400
The renewal of a license	200
The restoration of an expired license	500
The reinstatement of a suspended or revoked license.....	500
The issuance of a duplicate replacement license	75
The restoration of an inactive license	300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a

crime involving moral turpitude within the immediately preceding 10 years ;
~~{};~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

- (a) Made sexual advances toward the person;
- (b) Requested sexual favors from the person; or
- (c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~{};~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~{};~~

14. *Has failed to comply with a written administrative citation issued pursuant to section 7 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 8 of this act, within 15 business days after the hearing; or*

15. *Except as otherwise provided in subsection 14, has failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within ~~30~~ 60 days after:*

- (a) *Receiving notice of the imposition of the fine; or***
- (b) *The final administrative or judicial decision affirming the imposition***

of the fine,

↪ whichever occurs later.

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

- (a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;
- (b) Administer to the applicant or holder of the license a public reprimand;
- (c) Refuse to issue, renew, reinstate or restore the license;
- (d) Suspend or revoke the license;
- (e) ~~Impose~~ **Except as otherwise provided in section 5 of this act, impose an administrative fine of not more than ~~[\$1,000 per day for each day for which the Board determines that a violation occurred;] \$5,000 for each violation;~~**
- (f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or
- (g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds , ***based upon evidence in its possession***, that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice ~~[by certified mail]~~ to the massage therapist, temporarily suspend his license ***without a prior hearing*** for a period not to exceed ~~[30 days. For good cause,] ~~60~~ 30 days. ***The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 20 business days after the date on which the ~~Board mails~~ massage therapist receives notice of the temporary suspension. If the massage therapist:***~~

(a) ***Files a timely written request for a hearing, the Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than ~~60~~ 30 days after the date on which the Board ~~mails~~ provides notice of the temporary suspension. After holding such a hearing,*** the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown, that*** such action ~~[to be]~~ ***is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~***

(b) ***Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must***

be held and a final decision rendered regarding whether to extend the period of the temporary suspension *as promptly as is practicable but* not later than ~~30~~ ~~60~~ days after the date on which the Board ~~notifies the massage therapist~~ ~~mails~~ *provides notice* of the *initial* temporary suspension. *After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.*

2. If a massage therapist is charged with or cited for a crime involving violence, prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director ~~of the Board~~. Upon receiving such a report, the Executive Director shall immediately issue *by certified mail to the massage therapist* a cease and desist order temporarily suspending the license of the massage therapist ~~without a prior hearing~~. The temporary suspension of the license is effective immediately ~~upon issuance~~ *after the massage therapist receives notice* of the cease and desist order and must not exceed ~~15 days. For good cause,~~ *60 days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 20 days after the date on which the Executive Director mails the cease and desist order. If the massage therapist:*

(a) *Files a timely written request for a hearing, the Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 60 days after the date on which the Executive Director mails the cease and desist order. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~deems~~ finds, for good cause shown, that such action ~~to be~~ is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~In any such case, a]~~*

(b) *Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension as promptly as is practicable but* not later than ~~15~~ *60* days after the date on which the Executive Director ~~issues~~ *mails* the cease and desist order. *After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.*

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. *When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from state and local law enforcement agencies records relating to any charge or citation against the massage therapist for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.*

5. *Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the law enforcement agency shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The law enforcement agency may redact from the records produced pursuant to this subsection any descriptions of techniques and strategies and other information relating to law enforcement that are deemed confidential by the agency. Upon receiving the records from the law enforcement agency, the Board and the Executive Director:*

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

6. For purposes of this section, a person is deemed to have notice of a temporary suspension of his license:

(a) On the date on which the notice is personally delivered to the person;

or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~or~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~or~~; *or*

(c) *List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.*

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~for~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~for~~; *or*

(c) *List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.*

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee,

volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) ***The Board of Massage Therapists and its Executive Director.***

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request *to disconnect a telephone number* from the State Contractors' Board ~~[to disconnect a telephone number]~~ pursuant to NRS 624.720, *the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758*, the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~[624.720 and]~~ 703.175, *after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758*,

↪ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 416.

Bill read second time.

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

Amendment No. 878.

SUMMARY—~~[Suspending temporarily]~~ **Revises provisions governing the administration of ~~[norm-referenced]~~ certain tests, examinations and assessments** in public schools. (BDR ~~[S]~~ 34, 1216)

AN ACT relating to education; **revising provisions governing the administration of certain tests, examinations and assessments by the boards of trustees of school districts**; suspending temporarily the administration of norm-referenced examinations in public schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to administer certain examinations to pupils enrolled in public schools in this State. In addition to the examinations required by state and federal law, the boards of trustees of school districts require pupils to take certain district-wide tests, examinations and assessments. Section 7 of this bill limits the administration of certain district-wide tests, examinations and assessments during the 2009-2010 School Year and the 2010-2011 School Year.

Existing law requires the board of trustees of each school district and the governing body of each charter school to administer norm-referenced examinations in grades 4, 7 and 10 which compare the results of pupils to a national reference group of pupils. ~~[This]~~ **Section 9 of this bill** suspends temporarily the administration of norm-referenced examinations for the 2009-2010 School Year and the 2010-2011 School Year.

WHEREAS, The public schools in this State are required by the Federal Government and the Nevada Legislature to administer an increasing number of standardized tests to pupils, including criterion-referenced examinations, proficiency tests and tests of the National Assessment of Educational Progress; and

WHEREAS, The school districts in this State administer numerous district-wide tests in addition to those required by state and federal law; and

WHEREAS, In the aggregate, the task of preparing for and administering all these tests in schools throughout the State consumes hundreds of employee hours and requires the school districts to incur costs associated with the administration; and

WHEREAS, Although there is an undeniable need for test data to evaluate the progress of Nevada's public schools and pupils in meeting the standards of academic performance, the Legislature must carefully weigh the demands for statistical information against the time for teachers and pupils to accomplish the work required to meet those standards; and

WHEREAS, The Nevada Legislature finds that, during these difficult financial times, it is in the best interest of the pupils enrolled in public

schools in this State to temporarily limit the administration of certain tests; now, therefore,

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the board of trustees of a school district shall not administer a district-wide test, examination or assessment unless that test, examination or assessment:

(a) Is required by state or federal law; or

(b) Was adopted by the school district before July 1, 2007.

2. The provisions of this section do not apply to a test, examination or assessment that a pupil voluntarily takes without a district-wide requirement, including, without limitation, an advanced placement examination.

Sec. 8. NRS 389.006 is hereby repealed.

~~{Sec. 7}~~ **Sec. 9.** Notwithstanding the provisions of NRS 389.015 to the contrary, the norm-referenced examinations required to be administered to pupils enrolled in grades 4, 7 and 10 pursuant to that section must not be administered in the public schools of this State during the 2009-2010 School Year and the 2010-2011 School Year. Any requirements relating to the reporting of test scores of pupils on those examinations that would otherwise be administered during those School Years are also suspended.

~~{Sec. 8}~~ **Sec. 10. 1. This section and sections 7 and 8 of this act become effective upon passage and approval.**

2. Section 9 of this act becomes effective on July 1, 2009.

3. Sections 7 and 8 of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTION

389.006 Limitation on administration; periodic review. [Effective January 1, 2009.]

1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination,

the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 451; Senate Bills Nos. 137, 394, and 416.

Motion carried.

Assemblyman Ocegüera moved that all rules be suspended and that Senate Bills No. 416 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 Atkinson moved that Senate Bill No. 243 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

In compliance with a notice given on the previous day, Assemblywoman Gansert moved that the vote whereby Senate Bill No. 190 was passed be reconsidered.

Remarks by Assemblywoman Gansert.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 243.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 889.

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 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 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 traffic stops to enforce the provisions of NRS 484.744 to 484.757, inclusive, made by officers or inspectors trained as described in paragraph (a), regardless of whether a citation was issued; and

(d) 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.

Assembly Bill No. 451.

Bill read third time.

Remarks by Assemblymen Kirkpatrick and Cobb.

Roll call on Assembly Bill No. 451:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson—3.

EXCUSED—Arberry, Grady—2.

Assembly Bill No. 451 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 119 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. 137.

Bill read third time.

Remarks by Assemblymen Pierce and Manendo.

Roll call on Senate Bill No. 137:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Grady—2.

Senate Bill No. 137 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 394.

Bill read third time.

Remarks by Assemblymen Smith, Carpenter, Christensen, Bobzien, and Kirkpatrick.

Roll call on Senate Bill No. 394:

YEAS—34.

NAYS—Christensen, Cobb, Gustavson, McArthur, Settlemeyer, Woodbury—6.

EXCUSED—Arberry, Grady—2.

Senate Bill No. 394 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 416.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 416:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Grady—2.

Senate Bill No. 416 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 Senate Bills Nos. 190 and 355 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

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

Assembly in recess at 1:15 p.m.

ASSEMBLY IN SESSION

At 1:40 p.m.
Madam Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 186.

The following Senate amendment was read:

Amendment No. 640.

AN ACT relating to public utilities; revising the definition of “public utility” and “utility”; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill revises the definition of “public utility” and “utility” to exempt certain persons who own and operate renewable energy systems. (NRS 704.021)

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

Section 1. NRS 704.021 is hereby amended to read as follows:

704.021 “Public utility” or “utility” does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. *Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of a public utility per system if each individual system is:*

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

↪ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 186.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that all rules be suspended and that Senate Bill No. 394 be immediately transmitted to the Senate.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 87.

The following Senate amendment was read:

Amendment No. 661.

AN ACT relating to state administration; revising the provisions governing the collection of certain debts owed to state agencies; ~~revising certain provisions relating to the applicability of certain statutes of limitation to actions brought by or on behalf of the State;~~ establishing certain presumptions applicable to certain civil actions against employers who fail to

provide mandatory industrial insurance or coverage for occupational disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, unless a specific statute provides for the collection of a debt owed to an agency of the Executive Branch of State Government, the collection of the debt is governed by the provisions of chapter 353C of NRS. (NRS 353C.090) Under existing law, an agency may engage in its own collection efforts using the procedures and remedies established by chapter 353C of NRS or the agency may request the State Controller to act as its collection agent for that purpose. (NRS 353C.195) **Section 17** of this bill requires the State Controller to act as the collection agent for all agencies which do not have specific statutes concerning their debt collection or which have not obtained a waiver from the State Controller authorizing the agency to engage in its own collection efforts. Accordingly, **section 17** also requires all such agencies to assign their debts to the State Controller for collection within 60 days after the debt becomes past due or such other time agreed upon by the agency and the State Controller, unless the debtor has administratively contested the existence or amount of the debt. Finally, **section 17** authorizes an agency that has specific statutory authority to engage in its own collection efforts to assign a debt to the State Controller for collection or to exercise in its own debt collection efforts the additional rights and remedies conferred on the State Controller to collect debts. (NRS 353C.195) **Section 11** of this bill increases the threshold amount of ~~reimbursement allowed~~ debt for which the costs and fees actually incurred to collect the debt may be collected from \$200 to \$300, requires the payment of a fee to the State Controller and increases the limitation on the total amount of such costs and fees to an amount not to exceed 35 percent of the debt or \$50,000, whichever is less. **Sections 10, 12-16 and 18-20** of this bill make technical changes to substitute the State Controller as the person authorized to undertake the collection of debts owed to an agency using the procedures and remedies provided under existing law. (NRS 353C.130, 353C.140, 353C.150, 353C.160, 353C.180, 353C.190, 353C.200, 353C.210, 353C.220)

Sections 2-6 of this bill establish new procedures, rights and remedies in connection with the collection of debts owed to agencies. **Section 2** authorizes, with certain exceptions, an agency to refuse to conduct business with a person who has an unpaid debt to the State and also authorizes the State Controller to refuse to make a payment to such a debtor. **Section 4** authorizes the State Controller to appoint a private debt collector or other person as his agent to obtain a summary judgment against a debtor and to record that judgment or to file a certificate of liability with a county recorder. **Section 5** authorizes the State Controller, with the approval of the agency to which the debt is owed, to accept the payment of a portion of a debt as satisfaction of the full amount of the debt if the State Controller believes that doing so is likely to generate more net revenue for the State than continuing

his efforts to collect the full amount of the debt. **Section 6** authorizes the State Controller to sell a debt that is no longer collectible in a suit by the Attorney General because of the expiration of the statute of limitations applicable to such a suit.

~~Section 7 of this bill requires the State Controller to transfer to an agency~~ **specifies the disposition of** any money collected by the State Controller on behalf of ~~the~~ **an** agency minus any **fees owed to and** costs incurred or fees paid by the State Controller to collect any debt that has been assigned to him for collection by the agency and any interest paid by a debtor under an agreement with the State Controller for the payment of the debt on an installment basis. **Section 7.3 of this bill creates the Debt Recovery Account in the State General Fund and limits the use of the money in the Account to support of the debt collection efforts of the State Controller.** **Sections 8, 9 and 22** of this bill revise certain rulemaking authority relating to the collection of debts. (NRS 353C.110, 353C.120)

~~[Existing law includes chapter 11 of NRS which contains most of the statutes that limit the amount of time following the accrual of a cause of action during which a civil action may be filed. These statutes are commonly referred to as statutes of limitation. Existing law also provides that the same statutes of limitation that apply to actions brought by private individuals also apply to actions brought on behalf of the State, other than actions for the recovery of real property. Section 21 of this bill reverses the provisions governing the statutes of limitation for causes of actions brought in the name of the State or for the benefit of the State to provide that none of the provisions of chapter 11 of NRS concerning statutes of limitation apply to actions brought by or on behalf of the State, other than actions for the recovery of real property. (NRS 11.255)]~~

Under existing law, an employer who fails to maintain mandatory industrial insurance coverage and mandatory coverage for occupational disease for an employee is liable to the Division of Industrial Relations of the Department of Business and Industry for any costs incurred by the Division to compensate the employee if he is injured or contracts an occupational disease that arises out of and in the course of his employment. (NRS 616C.220, 617.401) **Sections 21.3 and 21.7** of this bill create a presumption that in any suit brought against such an employer to recover those costs, the Division's payments were: (1) justified by the circumstances of the claim; (2) reasonable and necessary; and (3) made in accordance with applicable law. **Sections 21.3 and 21.7** also authorize the State Controller to bring suit in his own name to collect debts arising under those sections if the Division assigns the debts to him for collection.

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

Section 1. Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~7~~ **7.3**, inclusive, of this act.

Sec. 2. 1. *Except as otherwise provided in this section, an agency may refuse to conduct a transaction with, and the State Controller may refuse to draw his warrant in favor of, a person who owes a debt to an agency until the debt is paid or the debtor enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.*

2. *An agency may not refuse to conduct a transaction with, and the State Controller may not refuse to draw his warrant in favor of, a debtor if:*

(a) *The refusal violates or is prohibited by a state or federal law or court order;*

(b) *The refusal violates a term or condition of a grant, contract or other agreement that the agency administers or to which the agency is a party; or*

(c) *The State Controller determines that the refusal is inequitable.*

Sec. 3. (Deleted by amendment.)

Sec. 4. 1. *Notwithstanding any specific statute to the contrary, if an agency has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller may:*

(a) *Appoint a private debt collector or any other person as his agent to:*

(1) *File an application for the entry of summary judgment against the debtor pursuant to NRS 353C.150; or*

(2) *Record a certificate of liability against the debtor in the office of a county recorder pursuant to NRS 353C.180; and*

(b) *Authorize his agent to incur any reasonable costs, including, without limitation, attorney's fees, that are necessary to carry out his duties pursuant to the appointment.*

2. *The State Controller must, before he appoints an agent pursuant to this section, determine that making the appointment is likely to generate more net revenue for the State than other methods available to the State Controller to collect the debt.*

Sec. 5. *Notwithstanding any specific statute to the contrary, the State Controller may enter into an agreement with a debtor to accept the payment of a portion of the debt in full satisfaction of the debt, including any penalty and interest, if:*

1. *The State Controller determines that accepting the agreed upon amount is likely to generate more net revenue for the State than continuing efforts to collect the full amount of the debt; and*

2. *The agency to which the debt is owed approves.*

Sec. 6. *If the period of limitation for the collection of a debt set forth in NRS 353C.140 has expired, the State Controller may, in lieu of requesting the State Board of Examiners to designate the debt as a bad debt pursuant to NRS 353C.220, sell the debt to any person.*

Sec. 7. 1. *If the State Controller collects any money owed to an agency from a debtor or receives any money from a private debt collector or other person to whom the State Controller has assigned the collection of a debt ~~not~~ owed to an agency, the State Controller shall, unless prohibited*

by federal law, transfer the net amount of money owed to the agency ~~to~~
~~which the debt is owed minus the amount of:~~

~~to~~ :

(a) Except as otherwise provided in paragraph (c), to the Debt Recovery Account created by section 7.3 of this act if the debt is owed to an agency whose budget is supported exclusively or in part from the State General Fund.

(b) Except as otherwise provided in paragraph (c), to an account specified by the agency if the debt is owed to an agency whose budget is supported exclusively from sources other than the State General Fund.

(c) If a specific statute requires the money to be deposited in a specific account or used for a specific purpose, to the specific account required by statute or to the account from which money is expended for the purpose specified.

2. As used in this section, "net amount of money owed to the agency" means the money owed to an agency by a debtor that is collected or received by the State Controller minus:

(a) Any fees owed pursuant to a specific statute to the State Controller for collection of the debt;

(b) Any costs incurred or fees paid by the State Controller to collect any debt assigned to him for collection by the agency;

~~to~~ ; and

(c) Any interest on the debt collected by the State Controller under the terms of an agreement with the debtor, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

Sec. 7.3. 1. The Debt Recovery Account is hereby created in the State General Fund.

2. Money in the Account may only be used for support of the debt collection efforts of the State Controller pursuant to this chapter.

3. Money transferred to the Account is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purpose set forth in subsection 2.

4. Upon the approval of the Interim Finance Committee, the State Controller may expend money in the Account.

Sec. 7.5. NRS 353C.090 is hereby amended to read as follows:

353C.090 ~~The~~ Except as otherwise provided in NRS 353C.195, the provisions of this chapter apply to an agency only to the extent that no other specific statute exists which provides for the collection of debts due the agency To ~~for, if such a specific statute exists, the agency has assigned a debt to the State Controller pursuant to NRS 353C.195. Except in the case of such an assignment, to~~ the extent that the provisions of this chapter conflict with such a specific statute, the provisions of the specific statute control ~~to~~
until a debt is assigned to the State Controller for collection.

Sec. 8. NRS 353C.110 is hereby amended to read as follows:

353C.110 The ~~Director of the Department of Administration and the Attorney General may jointly~~ *State Controller may* adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 9. NRS 353C.120 is hereby amended to read as follows:

353C.120 1. Each agency shall submit to the State Controller periodic reports of the debts owed to the agency. The State Controller shall maintain the reports . ~~to the extent that resources are available. The Director of the Department of Administration and~~ *The State Controller and* the Attorney General shall jointly prescribe the time, form and manner of the reports.

2. Except to the extent that the information on the reports is declared to be confidential by a specific statute of this State or federal law, the State Controller shall make the reports available for public inspection and may, without charge, make available for access on the Internet or its successor, if any, the information contained in the reports.

Sec. 10. NRS 353C.130 is hereby amended to read as follows:

353C.130 ~~An agency~~ *The State Controller* may enter into an agreement with a debtor which provides for the payment of a debt owed by the debtor to ~~the~~ *an* agency on an installment basis over a 12-month or lesser period. Upon good cause shown by the debtor, the ~~agency~~ *State Controller* may extend the period during which installment payments will be made for more than a 12-month period.

Sec. 11. NRS 353C.135 is hereby amended to read as follows:

353C.135 1. Except as otherwise provided *in subsection 2 or* by a specific statute, a person who owes a debt of more than ~~[\$200]~~ *\$300* pursuant to this chapter shall, in addition to the debt, pay ~~as reimbursement for the~~ :

(a) The costs and fees actually incurred to collect the debt [an amount] ; and

(b) A fee payable to the State Controller in the amount of 2 percent of the amount of the debt assigned to the State Controller for collection pursuant to NRS 353C.195.

2. *The total amount of costs and fees required pursuant to subsection 1 must not ~~to~~ exceed [25] 35 percent of the amount of the debt or [25,000,] \$50,000, whichever is less. Any prejudgment or postjudgment interest on the debt authorized by law must not be included in the calculation of the costs and fees actually incurred to collect the debt.*

Sec. 12. NRS 353C.140 is hereby amended to read as follows:

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

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

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction,
 ↪ on behalf of this State ~~and the agency~~ to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4

years after the date on which the debt became due or within 5 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 13. NRS 353C.150 is hereby amended to read as follows:

353C.150 1. In addition to any other remedy provided for in this chapter, if a person who owes a debt to an agency:

(a) Fails to pay the debt when it is due, or fails to pay an agreed upon amount in satisfaction of the debt; or

(b) Defaults on a written or other agreement ~~[with an agency]~~ relating to the payment of the debt,

↪ the ~~[agency]~~ **State Controller** may, within 4 years after the date on which the debt became due or the date on which the debtor defaulted, as appropriate, file with the office of the clerk of a court of competent jurisdiction an application for the entry of summary judgment against the debtor for the amount due.

2. ~~[An agency that intends to file an application for the entry of summary judgment pursuant to this section]~~ **The State Controller** shall, not less than 15 days before the date on which ~~[the agency]~~ **he** intends to file the application, notify the debtor of ~~[its]~~ **his** intention to file the application. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[]~~ **to which the debt is owed**, the amount sought to be recovered and the date on which the application will be filed with the court.

3. An application for the entry of summary judgment must:

(a) Be accompanied by a certificate that specifies:

(1) The amount of the debt, including any interest and penalties due;

(2) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~[agency]~~ **State Controller**;

(3) The basis for the determination ~~[by the agency]~~ of the amount due; and

(4) That the ~~[agency]~~ **State Controller** has complied with the applicable provisions of law relating to the determination of the amount required to be paid; and

(b) Include:

(1) A request that judgment be entered against the debtor for the amount specified in the certificate; and

(2) Evidence that the debtor was notified of the application for the entry of summary judgment in accordance with subsection 2.

Sec. 14. NRS 353C.160 is hereby amended to read as follows:

353C.160 The court clerk, upon the filing of an application for the entry of summary judgment which complies with the requirements set forth in NRS 353C.150, shall forthwith enter a judgment ~~[for the agency]~~ against the debtor in the amount of the debt, plus any penalties and interest, as set forth in the certificate. The ~~[agency]~~ **State Controller** shall serve a copy of the judgment, together with a copy of the application and the certificate, upon the

debtor against whom the judgment is entered, either by personal service or by mailing a copy to the last known address of the debtor. ~~[as it appears in the records of the agency.]~~

Sec. 15. NRS 353C.180 is hereby amended to read as follows:

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

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

(b) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~[agency]~~ **State Controller**;

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

(d) That the ~~[agency]~~ **State Controller** has notified the debtor in accordance with subsection 2.

2. ~~[An agency that intends to file a certificate of liability pursuant to this section]~~ **The State Controller** shall, not less than 15 days before the date on which ~~[the agency]~~ **he** intends to file the certificate, notify the debtor of ~~[its]~~ **his** intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[]~~ **to which the debt is owed**, the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for 5 years after the date of recording unless sooner released or otherwise discharged.

4. Within 5 years after the date of the recording of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording, the lien is extended for 5 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 16. NRS 353C.190 is hereby amended to read as follows:

353C.190 1. The State Controller may ~~[to the extent that resources are available]~~ offset any amount due an agency from a debtor against any amount owing to that debtor by any agency, regardless of whether the agency which owes the amount is the same agency to which the debtor owes the debt. Whenever the combined amount owing to a debtor by all agencies is

insufficient to offset all the amounts due the agencies from the debtor, the State Controller shall allocate the amount available from the debtor among the agencies in such a manner as the State Controller determines is appropriate.

2. If a debtor who owes a debt to an agency has a claim against that agency or another agency and refuses or neglects to file his claim with the agency within a reasonable time, the ~~head of the agency to which the debtor owes the debt~~ **State Controller** may file the claim on behalf of the debtor. If the State Controller ~~approves~~ **files** the claim, it has the same force and effect as though filed by the debtor. The amount due the debtor from the agency is the net amount otherwise owing to the debtor after any offset as provided in this section.

3. The State Controller shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, the manner in which offsets will be allocated among agencies.

Sec. 17. NRS 353C.195 is hereby amended to read as follows:

353C.195 ***Except as otherwise provided in this section or by a specific statute or federal law:***

1. The State Controller ~~may, if requested by any state agency,~~ **shall** act as the collection agent for ~~that~~ **each** agency.

2. ~~If the State Controller acts as the collection agent for an agency, the agency may~~ **An agency shall** coordinate all its debt collection efforts through the State Controller.

3. ***Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than 60 days after the debt becomes past due.***

4. ***An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:***

(a) ***The debtor and the agency have agreed on the existence and amount of the debt;***

(b) ***The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or***

(c) ***The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.***

5. ***Upon the request of an agency, the State Controller shall waive a requirement of this section:***

(a) ***If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or***

(b) ***For good cause shown.***

6. ***If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on***

the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect the debt.

Sec. 18. NRS 353C.200 is hereby amended to read as follows:

353C.200 1. Except as otherwise provided in subsection 2, *if an agency has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller* may enter into a contract with a private debt collector or any other person for the assignment of the collection of ~~the~~ *the* debt if the ~~agency;~~ *State Controller:*

(a) Determines the assignment is likely to generate more net revenue than equivalent efforts by the ~~agency;~~ *State Controller* to collect the debt, including collection efforts pursuant to this chapter;

(b) Determines the assignment will not compromise future collections of state revenue; and

(c) Notifies the debtor in writing at his address of record that the debt will be turned over for private collection unless the ~~debt is paid;~~ *debtor:*

(1) Pays the debt in full; or

(2) Enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

~~2. [An agency shall not enter into a contract with a private debt collector or any other person for the assignment of the collection of a debt if the debt has been contested by the debtor.~~

~~3.] A contract for the assignment of the collection of a debt may provide for:~~

~~(a) Payment by the [agency] State Controller to the private debt collector or other person of the costs of collection and fees for collecting the debt; or~~

~~(b) Collection by the private debt collector or other person from the debtor of the costs of collection and fees for collecting the debt.~~

~~[4.— Any contract entered into pursuant to this section is subject to approval by the Director of the Department of Administration and the State Controller.]~~

Sec. 19. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, ~~an agency to which a debt is owed] the State Controller~~ may, in addition to any other remedy provided for in this chapter, give notice of the amount of ~~the] a debt owed to this State~~ and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this State,

who has in his possession or under his control any credits or other personal property belonging to the debtor ~~[-]~~ or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

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

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

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

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

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

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

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the ~~[agency which sent the demand to transmit]~~ **State Controller** until otherwise notified by the ~~[agency.]~~ **State Controller**. If the debt of the debtor is not paid within 1 year after the date on which the ~~[agency]~~ **State Controller** issued the original demand to transmit, the ~~[agency]~~ **State Controller** shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs him to continue transmitting payments to the ~~[agency.]~~ **State Controller**; or

(b) Notify the person that his duty to transmit the payments to the ~~[agency]~~ **State Controller** has ceased.

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

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

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

Sec. 20. NRS 353C.220 is hereby amended to read as follows:

353C.220 1. If ~~[an agency]~~ **the State Controller** determines that it is impossible or impractical to collect a debt, ~~[the agency]~~ **he** may request the State Board of Examiners to designate the debt as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the debt as a bad debt if the Board is satisfied that the collection of the debt is impossible or impractical. If the debt is not more than \$50, the State Board of Examiners may delegate to its Clerk the authority to designate the debt as a bad debt. ~~[An agency that is aggrieved by]~~ **The State Controller may appeal** a denial of a request to designate the debt as a bad debt by the Clerk ~~[may appeal that denial]~~ to the State Board of Examiners.

2. Upon the designation of a debt as a bad debt pursuant to this section, the State Board of Examiners or its Clerk shall immediately notify the State Controller thereof. Upon receiving the notification, the State Controller shall direct the removal of the debt from the books of account of the State of Nevada. A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the State of Nevada.

3. ~~[If resources are available, the]~~ **The** State Controller shall keep a master file of all debts that are designated as bad debts pursuant to this section. ~~[If such a file is established and maintained, for]~~ **For** each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was

removed from the records and books of account of ~~the agency or~~ the State of Nevada, and any other information concerning the debt that the State Controller determines is necessary.

Sec. 21. ~~NRS 11.255 is hereby amended to read as follows:~~

~~11.255 1. [The] *Except as otherwise provided in subsection 2, the provisions of this chapter* [concerning actions other than for the recovery of real property shall] *do not* apply to actions *which accrue on or after the effective date of this act that are* brought in the name of the State [,] or for the benefit of the State . [, in the same manner as to actions by private individuals.]~~

~~2. [Except as provided in] *The provisions of* NRS 11.030 and 11.040 [, there shall be no limitation of] *apply to* actions brought in the name of the State, or for the benefit of the State, for the recovery of real property.]~~
(Deleted by amendment.)

Sec. 21.1. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, ***and section 7.3 of this act***, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 21.3. NRS 616C.220 is hereby amended to read as follows:

616C.220 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

↳ to administer claims against the uninsured employers' claim account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the uninsured employers' claim account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He suffers an accident or injury which arises out of and in the course of his employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the injured employee pursuant to NRS 616C.215.

↳ An employee who suffers an accident or injury while on temporary assignment outside the State is not eligible to receive compensation from the uninsured employers' claim account unless he has been denied workers' compensation in the state in which the accident or injury occurred.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory industrial insurance coverage for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS is liable for all payments made on his behalf, including any benefits, administrative costs or attorney's fees paid from the uninsured employers' claim account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the employee's injury.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving notice of the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

↳ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

↳ the Division shall authorize payment from the uninsured employers' claim account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to chapters 616A to 616D, inclusive, of NRS, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated 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 the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➔ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than \$10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS.

15. *If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.*

Sec. 21.7. NRS 617.401 is hereby amended to read as follows:

617.401 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➔ to administer claims against the Uninsured Employers' Claim Account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the Uninsured Employers' Claim Account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He contracts an occupational disease that arose out of and in the course of employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the employee pursuant to NRS 616C.215.

➔ An employee who contracts an occupational disease that arose out of and in the course of employment while on temporary assignment outside the State is not entitled to receive compensation from the Uninsured Employers' Claim Account unless he has been denied workers' compensation in the state in which the disease was contracted.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory coverage for occupational diseases for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of this chapter is liable for all payments made on his behalf, including, but not limited to, any benefits, administrative costs or attorney's fees paid from the Uninsured Employers' Claim Account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

- (1) Justified by the circumstances of the claim;***
- (2) Made in accordance with applicable law; and***
- (3) Reasonable and necessary.***

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the occupational disease.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

↳ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

↳ the Division shall authorize payment from the Uninsured Employers' Claim Account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS

616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to this chapter, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated 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 the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the Account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

↪ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than \$10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of this chapter.

15. *If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.*

Sec. 22. A regulation jointly adopted by the Director of the Department of Administration and the Attorney General pursuant to NRS 353C.110 remains in effect until it is amended or repealed by the State Controller pursuant to the amendatory provisions of this act.

Sec. 23. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009, for all other purposes.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 87.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 360.

The following Senate amendment was read:

Amendment No. 708.

AN ACT relating to special districts; authorizing the temporary creation of certain special districts to manage certain federal funds provided to the State; requiring that certain federal funds be distributed directly to certain special districts; requiring certain reporting in connection with such special districts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 308 of NRS provides for the creation of various types of special districts for various purposes. This bill authorizes the creation of special districts to manage money that is: (1) paid to the State by the Federal Government; and (2) designated for the territory covered by the district. To qualify, the number of county commissioners serving on the governing board of the special district cannot constitute a majority and the special district must be authorized to act independently of the county when managing the district. This bill also requires that, if a special district has been created, federal money be paid directly to the district and not to the county or counties within which the district lies.

Under the provisions of this bill, the governing body of any special district created pursuant thereto must, on or before January 1, 2011, submit a one-time report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

The provisions of this bill expire by limitation on June 30, 2013.

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

Section 1. Chapter 308 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A special district may be formed subject to the provisions of this chapter:

(a) To manage any money that is:

(1) Paid to the State of Nevada or to a county by the Federal Government; and

(2) Designated for the territory covered by the special district; and

(b) With a governing body:

(1) Of which not more than half of the members are also members of the ~~governing body or bodies~~ board of county commissioners of the

county ~~for counties~~ within which lies the territory covered by the special district; and

(2) Which is authorized to act independently of the ~~governing body or bodies~~ board of county commissioners of the county ~~for counties~~ within which lies the territory covered by the special district.

2. If a special district is formed pursuant to the provisions of this section to manage money that is:

(a) Paid to the State of Nevada or to a county by the Federal Government pursuant to a specified bill or measure of the Federal Government; and

(b) Designated for the territory covered by the special district,
 ↪ any such money must be distributed directly to the special district for expenditure.

Sec. 2. NRS 354.140 is hereby amended to read as follows:

354.140 1. ~~The~~ Except as otherwise provided in subsection 2, the money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500, providing for the payment to states and territories of a fixed percentage of the money received by the Government of the United States from the forest reserves established therein, must be distributed respectively to the county or counties in which the forest reserves are situated. ~~to~~

2. If a special district has been formed pursuant to the provisions of section 1 of this act to manage money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500 from forest reserves established within the territory covered by the special district, any such money must be distributed directly to the special district.

3. Money distributed pursuant to subsections 1 and 2 must be expended for the benefit of the public schools and the public roads of the county or counties in equal proportion for each object. The proportion for schools must be paid into the county school district fund. If there is a county road fund, the proportion for roads must be paid into the county road fund. If there is no county road fund, the proportion for roads must be paid into the county general fund for public road purposes.

~~2.~~ 4. When any forest reserve is in more than one state or county, the distributive share to each must be proportional to its area therein, following as near as may be the figures submitted to the State of Nevada respecting net forest area and county acreage therein by the Forest Service, United States Department of Agriculture.

~~3.~~ 5. The agency which is responsible for completing any audit required for the continuation of the payments must be reimbursed for the cost of the audit from the funds to which the payments were distributed proportionately according to the percentage of the payment which was distributed to each fund.

Sec. 3. 1. On or before January 1, 2011, the governing body of any special district formed pursuant to the provisions of section 1 of this act shall

submit a report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

2. The report required to be submitted in accordance with subsection 1 must include, without limitation:

- (a) A description of the boundaries of the special district.
- (b) The form and composition of the governance of the special district.
- (c) The total number of dollars received by the special district, directly or indirectly, from the Federal Government.
- (d) The purposes for which the money described in paragraph (c) was spent and will be spent.
- (e) A description of the activities engaged in by the special district.
- (f) Any other information that is requested by the Director of the Legislative Counsel Bureau which the Director determines would be helpful to the Legislature in evaluating the efficacy, efficiency and usefulness of the special district.

Sec. 4. This act becomes effective on July 1, 2009, and expires by limitation on June 30, 2013.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 360.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 463.

The following Senate amendment was read:

Amendment No. 758.

AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with ~~consultants and~~ temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. **Section 1** requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has not expired before the person is employed as a consultant. **Section 1** also

requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. **Section 1** also requires that contracts with ~~consultants and~~ temporary employment services be awarded by open competitive bidding. **Section 1 further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are solely federally funded.** **Section 2.5** of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency. **Section 2.7** of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in ~~subsection 6,~~ this section, a department, division or other agency of this State shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency if:

- (a) The person is a current employee of an agency of this State;**
- (b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State; ~~or~~**
- (c) ~~The~~ Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years ~~+~~; or**
- (d) The person is employed by the Department of Transportation for a transportation project that is solely federally funded and the term of the contract is for more than 4 years, or is amended or otherwise extended beyond 4 years.**

↪ unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person.

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist:

(a) *The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or*

(b) *A short-term need or unusual economic circumstance exists for the agency to employ the person as a consultant.*

3. *A department, division or other agency of this State may employ a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the Interim Finance Committee if the term of employment is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the employment. If a department, division or agency employs a person pursuant to this subsection, the department, division or agency shall include in the report to the Interim Finance Committee pursuant to subsection 4 a description of the emergency.*

4. *Except as otherwise provided in subsection ~~6.~~ 7, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.*

~~4.~~ 5. *Except as otherwise provided in subsection ~~6.~~ 7, a department, division or other agency of this State shall not contract with a ~~consultant~~ ~~or a~~ temporary employment service unless the contracting process is controlled by rules of open competitive bidding.*

~~5.~~ 6. *Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:*

(a) *The number of consultants employed by the board, commission, school district or institution;*

(b) *The purpose for which the board, commission, school district or institution employs each consultant;*

(c) *The amount of money or other remuneration received by each consultant from the board, commission, school district or institution; and*

(d) *The length of time each consultant has been employed by the board, commission, school district or institution.*

~~6.~~ 7. *The provisions of subsections 1 to ~~4.~~ 5, inclusive, do not apply to the :*

(a) Nevada System of Higher Education or a board or commission of this State.

(b) Employment of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is solely federally funded.

~~7.~~ 8. *For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.*

Sec. 2. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~and~~ **and section 1 of this act**. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 2.5. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~and~~

(b) ***Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and***

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. 1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

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

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 463.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Smith moved that the Assembly do not recede from its action on Senate Bill No. 54, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Smith.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Leslie, Smith, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 54.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Smith moved that the Assembly do not recede from its action on Senate Bill No. 17, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Smith.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Denis, Spiegel, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 17.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 335.

The following Senate amendment was read:

Amendment No. 845.

SUMMARY—Makes various changes relating to **nuisances and** criminal gangs. (BDR ~~15~~ **3**-85)

AN ACT relating to criminal gangs; ~~enhancing penalties and providing for the suspension of drivers' licenses for certain crimes committed to promote criminal gang activity;~~ making various changes relating to

nuisances and criminal gangs; ~~providing penalties;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, a person who commits a felony to promote the activities of a criminal gang is subject to an additional penalty under certain circumstances. (NRS 193.168) Section 1 of this bill provides that if a person commits a crime normally punishable as a misdemeanor or gross misdemeanor to promote the activities of a criminal gang and if the person has previously been convicted of at least three similar violations, then: (1) the person may be found guilty of a category E felony; and (2) the driver's license of the person may be suspended for a certain period. Section 2 of this bill clarifies that if a person is subject to the increased penalty provided in section 1, the person is not subject to certain other additional penalties. (NRS 193.169)]~~

Existing law provides that certain places used for certain illegal activities constitute a private nuisance, which creates civil liability and allows any person whose property is affected to bring a civil action to abate the nuisance and recover damages. (NRS 40.140) **Section 3** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a private nuisance. Existing law also provides that certain places used for certain illegal activities constitute a public nuisance, and any person responsible for such a public nuisance who does not abate the public nuisance is guilty of a misdemeanor. (NRS 202.450, 202.470) **Section 5** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a public nuisance.

Sections 6 and 7 of this bill authorize the board of county commissioners of a county and the governing body of a city to adopt an ordinance authorizing the filing of a civil action, under certain circumstances, to: (1) enjoin the activities of a specific member of a criminal gang; and (2) recover money damages, attorney's fees and costs against a member of a criminal gang and the owner of a business or place that constitutes a nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang. **Sections 6 and 7** also provide that a member of a criminal gang who is subject to an injunction and who knowingly and intentionally commits a material violation of that injunction is guilty of a misdemeanor.

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

Section 1. ~~[Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—Except as otherwise provided in NRS 193.169, if:~~

~~(a) A person commits a violation of a statute that is punishable as a misdemeanor or gross misdemeanor pursuant to that statute;~~

~~(b) The person commits that violation knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and~~

~~(c) The person has previously been convicted of at least three similar violations;~~

~~the person may be deemed to be guilty of a category E felony and may be punished as provided in NRS 193.130.~~

~~2.—If a person is punished pursuant to this section, the court may, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court may issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. If the court issues an order pursuant to this subsection, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses, together with a copy of the order.~~

~~3.—The court shall not punish a person pursuant to this section unless:~~

~~(a) The indictment, information or complaint charging the person with the violation specifically indicates that the State is seeking to punish the person pursuant to this section and specifically alleges that the violation was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and~~

~~(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.~~

~~4.—In any proceeding to punish a person pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:~~

~~(a) Characteristics of persons who are members of criminal gangs;~~

~~(b) Specific rivalries between criminal gangs;~~

~~(c) Common practices and operations of criminal gangs and the members of those gangs;~~

~~(d) Social customs and behavior of members of criminal gangs;~~

~~(e) Terminology used by members of criminal gangs;~~

~~(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and~~

~~(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.~~

~~5.—As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 193.169 is hereby amended to read as follows:~~

~~193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection 3 of NRS 193.161, subsection 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~3. A person who is punished pursuant to section 1 of this act must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~4. This section does not:~~

~~(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1, 2 or [2.] 3.~~

~~(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1, 2 or [2.] 3 and introducing evidence to prove the alternative allegations. (Deleted by amendment.)~~

Sec. 3. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog; ~~or~~

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

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180

days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog ~~{}~~; *or*

(d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang,

↪ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section:

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

(b) "***Criminal gang***" has the meaning ascribed to it in NRS 193.168.

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

~~{(e)}~~ (d) "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or

device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away; ~~for~~

(f) ***That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang; or***

(g) Where vagrants resort,

↪ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

↪ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on

the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. As used in this section:

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

(b) "**Criminal gang**" has the meaning ascribed to it in NRS 193.168.

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

~~(e)~~ (d) "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 6. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the county.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the county; and

(2) The owner of a building or place located within the county that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;

(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate, segregated fund in the county treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.

3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.

4. An action may not be brought pursuant to this section against:

(a) Any governmental entity; or

(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Sec. 7. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the city.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the city; and

(2) The owner of a building or place located within the city that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

*(a) Paid by, or collected from:**(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;**(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or**(3) Any combination of the assets described in subparagraphs (1) and (2).**(b) Deposited into a separate, segregated fund in the city treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.**3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.**4. An action may not be brought pursuant to this section against:**(a) Any governmental entity; or**(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.**5. As used in this section, “criminal gang” has the meaning ascribed to it in NRS 193.168.*

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 335.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 361.

The following Senate amendment was read:

Amendment No. 655.

AN ACT relating to common-interest communities; providing that, under certain circumstances, a unit-owners' association may, without liability for trespass, enter the grounds of a vacant unit or a unit in foreclosure to abate a public nuisance or maintain the exterior of the unit; providing that a unit-owners' association may request a copy of certain deeds of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law assigns the responsibility for maintenance of a unit in a common-interest community to the owner of the unit, and maintenance of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law provides procedures for the executive board of

the association to fine a unit's owner who fails to maintain his residence according to the governing documents. (NRS 116.31031)

Section 1 of this bill provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or that is in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if, after notice and a hearing, the unit's owner refuses or fails to do so. **Section 1** also provides that ~~[(1)]~~ any amount of the costs for such maintenance or abatement which are not paid by the unit's owner will be a lien against the unit, ~~[(1) and (2)]~~ **Further, this section provides that** the lien has priority over certain other liens, claims, encumbrances and titles, ~~[depending on whether the unit is a single family detached dwelling,]~~ except certain liens recorded before the declaration for the association was recorded and certain liens of assessments and taxes. **Finally, this section provides that the period of priority of the lien shall be indefinite, unless regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association provide for a shorter period of priority for the lien, but even if such organization's regulations provide for a shorter period of priority for the lien, the period of priority shall not be less than 6 months.**

Section 2 of this bill specifically authorizes a unit-owners' association to charge a unit's owner for the maintenance and abatement services provided pursuant to **section 1** of the bill. (NRS 116.3102) **Section 3** of this bill further provides that a lien for such maintenance and abatement services has priority over a first security interest on the unit, ~~[under certain circumstances if the unit is a single family detached dwelling,]~~ (NRS 116.3116)

Section 4 of this bill provides that a unit-owners' association may record in the office of the county recorder a request for a trustee or other authorized person to provide the association with a copy of the deed after the sale of a unit upon a deed of trust for any unit within the association. (NRS 107.090)

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 a new section to read as follows:

1. A person who holds a security interest in a unit must provide the association with his contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided

in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing ~~landscaping,~~ maintenance, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.

4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, ~~any~~ reasonable inspection fees, notification and collection costs and ~~interests,~~ interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

5. A lien described in subsection 4 ~~on any unit~~ bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges ~~and~~ , including all interest due ~~is~~, are paid.

6. ~~+~~ Except as otherwise provided in this subsection, a lien described in subsection 4 ~~on a unit which is a single family detached dwelling~~ is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6

months immediately preceding the institution of an action to enforce the lien.

7. A person who purchases or acquires ~~the~~ a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. ~~[Units]~~ Such a unit may only be removed from ~~an association~~ a common-interest community in accordance with the governing documents ~~of the association~~ pursuant to this chapter.

8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.

9. As used in this section ~~,"vacant"~~ :

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.

(b) "Vacant" means a unit:

~~(a)~~ (1) Which reasonably appears to be unoccupied;
~~(b)~~ (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and
~~(c)~~ (3) On which the owner has failed to pay assessments for more than ~~30~~ 60 days.

Sec. 2. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

- (a) Adopt and amend bylaws, rules and regulations.
- (b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.
- (c) Hire and discharge managing agents and other employees, agents and independent contractors.
- (d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.
- (e) Make contracts and incur liabilities.
- (f) Regulate the use, maintenance, repair, replacement and modification of common elements.
- (g) Cause additional improvements to be made as a part of the common elements.
- (h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners ~~[]~~, ***including, without limitation, any services provided pursuant to section 1 of this act.***

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

↪ The lien is also prior to all security interests described in paragraph (b) to the extent of **any charges incurred by the association on a unit** ~~which is a single family detached dwelling~~ **pursuant to section 1 of this act and to the extent of** the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Sec. 4. NRS 107.090 is hereby amended to read as follows:

107.090 1. As used in this section, "person with an interest" means any person who has or claims any right, title or interest in, or lien or charge upon, the real property described in the deed of trust, as evidenced by any document or instrument recorded in the office of the county recorder of the county in which any part of the real property is situated.

2. A person with an interest or any other person who is or may be held liable for any debt secured by a lien on the property desiring a copy of a notice of default or notice of sale under a deed of trust with power of sale upon real property may at any time after recordation of the deed of trust record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default or of sale. The request must state the name and address of the person requesting copies of the notices and identify the deed of trust by stating the names of the parties thereto, the date of recordation, and the book and page where it is recorded.

3. The trustee or person authorized to record the notice of default shall, within 10 days after the notice of default is recorded and mailed pursuant to

NRS 107.080, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to:

- (a) Each person who has recorded a request for a copy of the notice; and
- (b) Each other person with an interest whose interest or claimed interest is subordinate to the deed of trust.

4. The trustee or person authorized to make the sale shall, at least 20 days before the date of sale, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person described in subsection 3.

5. *An association may record in the office of the county recorder of the county in which a unit governed by the association is situated an acknowledged request for a copy of the deed upon sale of the unit pursuant to a deed of trust. A request recorded by an association must include, without limitation:*

- (a) *A legal description of the unit or the assessor's parcel number of the unit;*
- (b) *The name and address of the association; and*
- (c) *A statement that the request is made by an association.*

6. *A request recorded by an association pursuant to subsection 5 regarding a unit supersedes all previous requests recorded by the association pursuant to subsection 5 regarding the unit.*

7. *If a trustee or person authorized to record a notice of default records the notice default for a unit regarding which an association has recorded a request pursuant to subsection 5, the trustee or authorized person shall mail to the association a copy of the deed upon the sale of the unit pursuant to a deed of trust within 15 days after the trustee records the deed upon the sale of the unit.*

8. No request recorded pursuant to the provisions of subsection 2 *or* 5 affects the title to real property ~~[-]~~, *and failure to mail a copy of the deed upon the sale of the unit after a request is made by an association pursuant to subsection 5 does not affect the title to real property.*

9. *As used in this section:*

- (a) *"Association" has the meaning ascribed to it in NRS 116.011.*
- (b) *"Unit" has the meaning ascribed to it in NRS 116.093.*

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 361.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 491.

The following Senate amendment was read:

Amendment No. 727.

AN ACT relating to civil actions; providing that a certain amount of money held in a bank that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 2** of this bill provides that a certain amount of money held in the personal bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor. **Section 2 further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. Section 2.5 of this bill provides that notwithstanding the provisions of section 2, if a judgment debtor has personal accounts in more than one financial institution, the writ may attach to all money in those account. The judgment debtor the must claim any exemption that may apply.**

Section 3 of this bill provides that a separate writ must be issued to levy on a safe-deposit box and provides a procedure for executing on such a writ. **Section 5** of this bill revises the exemptions from execution so that the exemption for certain plans and accounts for deferred payments applies not only to the money that is held in the account, but also to the proceeds paid from those accounts. **Section 5** also ~~adds a new exemption for proceeds from a private disability insurance plan.~~ **lists additional exemptions which are provided by Nevada law.**

Section 6 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 4 and 7** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor so that the procedures listed in the notice reflect the changes made in **section 6**. **Sections 4 and 7** further revise the notice to provide additional information concerning the claiming of exemptions. **Sections 1.5 and 6.5 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.**

~~f Section 9 of this bill prohibits a judgment creditor from submitting more than two applications for a writ of garnishment with respect to the same~~

~~judgment for the same type of property if the property is held in a financial institution.~~

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 2** of this bill. **Section 12** of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment. **Section 14** of this bill provides that the fee for receiving and taking property on execution, attachment or court order collected by a constable is not payable in advance. **Section 15** of this bill provides that certain benefits are exempt from execution regardless of whether they are mingled with other money. **Section 16** of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 6** of this bill.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.5 to and 3~~ 1.5 to 3, inclusive, of this act.

Sec. 1.5. A constable may perform any of the duties of a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.

Sec. 2. 1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, ~~(\$2,500)~~ \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. ~~(Money which)~~ For the purposes of this section, money is reasonably identifiable as exempt from execution ~~(includes)~~ if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, ~~(+)~~ money deposited as:

(a) Benefits provided pursuant to the Social Security Act ~~(+)~~ which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, ~~(+)~~ disability insurance benefits ~~(+)~~

~~(b)~~ and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits ~~for and~~ which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or his surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, \$1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

3. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in ~~the~~ the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, ~~the~~ the judgment debtor

may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether ~~the~~ such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide ~~an accounting of~~ statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. ~~If a writ of execution or garnishment that is levied on the bank account of a judgment debtor is determined to be unenforceable because all of the money in the account is exempt from execution pursuant to subsection 1 or invalid or in violation of the provisions of this chapter or chapter 31 of NRS, the bank must not charge a fee to the judgment debtor regardless of any agreement with or policy of the bank to the contrary.~~ A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 2.5. 1. Notwithstanding the provisions of section 2 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.

2. A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.

3. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.

Sec. 3. 1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the

judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

Sec. 4. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in ~~it~~ **and any proceeds paid from:**

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse,

including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➤ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ~~[and]~~, ***the garnishee and*** the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of

execution *or garnishment* is ~~mailed.~~ *served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.* The property must be ~~returned to you~~ *released by the garnishee or the sheriff* within ~~5~~ **9 judicial** days after you ~~file~~ *serve the affidavit claim of exemption upon the sheriff, garnishee and judgment creditor*, unless ~~you or the judgment creditor files a motion~~ *the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice* for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~motion~~ *objection to the claim of exemption and notice* for the hearing to determine the issue of exemption must be filed within ~~10~~ **8 judicial** days after the ~~affidavit claiming~~ *claim of exemption is filed.* *served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.* The hearing to determine whether the property or money is exempt must be held within ~~10~~ **7 judicial** days after the ~~motion~~ *objection to the claim of exemption and notice* for the hearing is filed. *You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.*

IF YOU DO NOT FILE THE ~~AFFIDAVIT~~ **EXECUTED CLAIM OF EXEMPTION** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 5. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the

judgment debtor for the support of himself and his family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$500,000 in present value, held in ~~[-]~~ **and any proceeds paid from:**

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Proceeds received from a private disability insurance plan.

(dd) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(ee) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(ff) Unemployment compensation benefits received pursuant to NRS 612.710.

(gg) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(hh) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(ii) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ji) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 6. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~the~~ pursuant to this section, the judgment debtor must, within ~~8~~ 20 calendar days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ of a writ of execution or garnishment is served on him by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on, serve on the sheriff, the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution ~~[an affidavit setting out]~~ his claim of exemption ~~[.]~~ which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of his earnings.

2. The clerk of the court shall provide the form for the ~~affidavit~~.

~~2.]~~ claim of exemption and must further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.

3. ~~[When the] [affidavit] [claim of exemption is served, the sheriff or garnishee shall release the property and make the property available to the judgment debtor by not later than the end of business on the ninth day following such service if the] [judgment creditor,] [sheriff or garnishee has not received within] [5] [8 days] [after written demand by the sheriff:~~

(a) ~~Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

(1) ~~Is in a sum equal to double the value of the property levied on; and~~

(2) ~~Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

(b) ~~Fails to file a motion] [a copy of the objection to the claim of exemption and notice for a hearing from the judgment creditor to determine whether the property or money is exempt.]~~

~~[→] [The clerk of the court shall provide the form for the] [motion.~~

3. ~~At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.] [objection to the claim of exemption and notice for a hearing to determine whether the property or money is exempt.~~

4. ~~An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.~~

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~[-]~~ where ~~[-]~~

(a) ~~No affidavit claiming] a claim of exemption is *not* served on him . [-]~~
or

(b) ~~An affidavit claiming exemption is served on him, but the sheriff fails to release the property in accordance with this section.~~

~~5.] 6. Unless the court continues the hearing for good cause shown, the hearing *on an objection to a claim of exemption* to determine whether the property or money is exempt must be held within ~~[10] 7~~ judicial days after the ~~[motion] claim of objection and notice~~ for ~~[the] a~~ hearing is filed.~~

~~[6.—The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.] The judgment ~~creditor~~ debtor has the burden to prove that ~~the judgment debtor is not~~ he is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.~~

7. ~~If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee shall release the property to the sheriff or, if the property is held by the sheriff, the sheriff shall release the property to the judgment creditor.~~

8. ~~At any time after:~~

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

~~9. If a court determines after a hearing that an objection to a claim of exemption was claimed in bad faith or if the judgment creditor had reason to know that the property was exempt from execution or submitted more than two applications for a writ of execution for the same judgment on the same property or account of the judgment debtor in violation of subsection 2 of NRS 31.249, the court shall award to the judgment debtor reasonable costs, attorney fees, actual damages and an amount not to exceed \$1,000.~~

~~10.~~ The provisions of this section do not limit or prohibit any other remedy provided by law.

~~11.~~ **10.** In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

~~12. Regardless of whether the judgment debtor claims an exemption, any exemption to which the debtor is entitled may not be waived.~~

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 6.5. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 7. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

↪ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, not to exceed \$550,000,

unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in ~~it~~ **and any proceeds from:**

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.
22. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.
23. A tax refund received from the earned income credit provided by federal law or a similar state law.
24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➔ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ ***an executed claim of exemption.*** A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ~~[and]~~ , ***the garnishee and the judgment creditor*** within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve the [affidavit] claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless the ~~[judgment creditor files a motion]~~ ***sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. ***The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for a hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from***

financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ **EXECUTED CLAIM OF EXEMPTION** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~NRS 31.249 is hereby amended to read as follows:~~

~~31.249 1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:~~

~~(a) In the order directing the clerk to issue a writ of attachment; or~~

~~(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.~~

~~2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee:~~

~~(a) Is the employer of the defendant; or~~

~~(b) Is indebted to or has property in his possession or under his control belonging to the defendant,~~

~~and that to the best of the knowledge and belief of the affiant, the defendant's future wages, the garnishee's indebtedness or the property possessed is not by law exempt from execution. If the named garnishee is the State of Nevada, the writ of garnishment must be served upon the State Controller. A judgment creditor shall not submit more than two applications for a writ of garnishment with respect to the same judgment for the same type of property in any calendar year upon the same account of a judgment debtor if the property is held in a financial institution. A~~

~~judgment creditor who submits more than two applications may be subject to the penalties set forth in subsection 9 of NRS 21.112.~~

~~3. The affidavit by or on behalf of the plaintiff may be contained in the application for the order directing the writ of attachment to issue or may be filed and submitted to the court separately thereafter.~~

~~4. Except as otherwise provided in this section, the grounds and procedure for a writ of garnishment are identical to those for a writ of attachment.~~

~~5. If the named garnishee is the subject of more than one writ of garnishment regarding the defendant, the court shall determine the priority and method of satisfying the claims, except that any writ of garnishment to satisfy a judgment for the collection of child support must be given first priority.] (Deleted by amendment.)~~

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to *be submitted with any writ of execution, attachment or garnishment* to the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants

or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount *of disposable earnings, as defined in NRS 31.295, that* each defendant presently earns during a pay period. *State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld. The minimum amount of disposable earnings may be determined, if the pay period is:*

Weekly: By multiplying 50 times the federal minimum hourly wage;

Biweekly: By multiplying 50 times the federal minimum hourly wage, times 2;

Semimonthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 24; or

Monthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 12.

State the amount that is subject to garnishment, which must not exceed 25 percent of the disposable earnings.

Answer: _____

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in whichis interested? If so, state its value, and state fully all particulars.

Answer: _____

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to or in whichis interested, and now in the possession or under the control of others? If so, state particulars.

Answer: _____

Are you a financial institution with ~~any~~ a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section ~~11~~ 2 of this act, ~~the amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section ~~11~~ 2 of this act or, if no such deposit has been made, \$1,000 or the amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.~~

Answer: _____

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer: _____

Garnishee

I (insert the name of the garnishee), ~~do solemnly swear (or affirm)~~ declare under penalty of perjury that the answers to the foregoing interrogatories by me subscribed are true ~~and correct.~~

(Signature of garnishee)

~~I SUBSCRIBED and SWORN to before me this day of the month of of the year~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit his answers to the sheriff within the time required by the writ. ***The garnishee shall submit his answers to the judgment debtor within the same time.*** If the garnishee fails to do so, he shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in his answer to garnishee interrogatories that he is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of \$3 per pay period, not to exceed \$12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of his right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~fee~~ ***fees*** described in ~~paragraph~~ ***paragraphs (a) and (d)*** of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his fees, which may be due him for services rendered by him in any suit or proceedings, he may have execution therefor in his own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 15. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~if they are not mingled with other money of the recipient,~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessities furnished to the person or his spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 16. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 491.

Remarks by Assemblymen Anderson and Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 496.

The following Senate amendment was read:

Amendment No. 695.

AN ACT relating to the Commission on Judicial Discipline; revising the statute of limitations for filing certain complaints with the Commission; revising provisions concerning the grounds upon which the Commission may discipline a judge; authorizing the Commission to impose additional forms of discipline upon a judge who is the subject of a complaint; revising certain provisions concerning the confidentiality of the proceedings of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines certain terms used in certain provisions of chapter 1 of NRS which relate to the Commission on Judicial Discipline. (NRS 1.425-1.429) **Sections 1.5-9, 16 and 17** of this bill revise certain definitions and define additional terms that are used in those provisions.

Section 13 of this bill requires the Commission to prepare annual and biennial reports concerning, among other things, the **period for** disposition of ~~cases~~ **complaints** filed with the Commission.

Sections 21, 22, 26 and 27 of this bill authorize the Commission to dismiss a complaint with a letter of caution under certain circumstances. (NRS 1.4655, 1.4657, 1.4667, 1.467)

Section 21 of this bill provides, with exceptions, a 3-year statute of limitations for filing a complaint with the Commission concerning alleged misconduct or incapacity of a judge. **Section 21** also requires the Commission, within 18 months after the receipt of such a complaint, to either resolve the complaint or authorize the filing of a formal statement of charges relating to the complaint. (NRS 1.4655) **Section 27** of this bill requires a judge to file an answer to a formal statement of charges against the judge with the Commission within 20 days after the judge is served with the formal statement of charges. (NRS 1.467) **Section 28** of this bill generally requires a hearing on a formal statement of charges to be held. Further, **section 28** requires, if practicable, the hearing to be held not later than 60 days after a judge files the answer with the Commission. (NRS 1.4673) **Section 28** also requires the Commission to prepare findings of fact and conclusions of law setting forth the decision of the Commission within 60 days after the conclusion of the hearing on the formal statement of charges. (NRS 1.4673)

Section 29 of this bill requires the Commission to give a judge 7 days' notice and an opportunity to respond and to hold a public hearing before the Commission suspends the judge from office. (NRS 1.4675)

Section 30 of this bill adds public admonishment and public reprimand to the existing forms of discipline the Commission is authorized to use for a judge who is the subject of a complaint. (NRS 1.4677) **Section 32** of this bill authorizes a person who files a complaint against a judge with the Commission, the judge who is the subject of the complaint or a witness to disclose information concerning the complaint and any investigation or proceedings concerning the complaint. **Section 32** also authorizes the Commission to issue an explanatory statement, under certain circumstances,

concerning a complaint filed with the Commission under certain circumstances in which the complaint is made public. (NRS 1.4683)

Section 33 of this bill revises provisions governing the documents and exhibits concerning a complaint which must be made accessible to the public.

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

Section 1. Chapter 1 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 14, inclusive, of this act.

Sec. 1.5. *"Admonish" means to issue a written expression of disapproval of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653. The expression of disapproval may include a warning to the judge to avoid similar conduct in the future.*

Sec. 2. *"Censure" means to issue a formal, written condemnation of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653 that do not require the removal or barring of the judge from office because there are substantial mitigating factors.*

Sec. 3. *"Complaint" means information in any form and from any source that alleges or implies judicial misconduct or incapacity.*

Sec. 4. *"Formal statement of charges" means a document setting forth the specific acts of judicial misconduct or incapacity, including any amendment thereto.*

Sec. 5. *"Letter of caution" means a private, written communication to a judge to:*

1. *Remind the judge of ethical responsibilities;*
2. *Warn the judge to avoid similar conduct in the future; or*
3. *Disapprove of conduct that may create the appearance of impropriety.*

Sec. 6. *"Removal" means a decision issued by the Commission to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.*

Sec. 6.5. *"Remove" means to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.*

Sec. 7. *"Reprimand" means a severe, written reproof for one or more violations of the Nevada Code of Judicial Conduct by a judge as described in NRS 1.4677.*

Sec. 8. *"Special counsel" means the attorney designated by the Commission to:*

1. *Present evidence at a hearing to suspend a judge held pursuant to NRS 1.4675;*
2. *File and prosecute a formal statement of charges; and*
3. *Perform other tasks, as directed by the Commission, pursuant to a designation authorized by NRS 1.4663.*

Sec. 9. "Suspend" means a decision issued by the Commission to require a judge to temporarily leave his office for conduct described in NRS 1.4675.

Sec. 10. 1. Proceedings before the Commission are civil matters designed to preserve an independent and honorable judiciary.

2. Except as otherwise provided in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act or in the procedural rules adopted by the Commission, after a formal statement of charges has been filed, the Nevada Rules of Civil Procedure apply.

Sec. 11. 1. Each appointing authority shall appoint for each position for which the authority makes an appointment to the Commission an alternate member. The Governor shall not appoint more than two alternate members of the same political party. An alternate member must not be a member of the Commission on Judicial Selection.

2. An alternate member shall serve:

(a) When the appointed member is disqualified or unable to serve; or

(b) When a vacancy exists.

Sec. 12. The Commission shall adopt rules providing for the disposition of a complaint or formal statement of charges at any stage in a disciplinary proceeding, pursuant to:

1. The consent of the judge who is the subject of the complaint; and

2. An agreement between the judge and the Commission.

Sec. 13. 1. On or before September 30 of each year, the Commission shall prepare an annual report summarizing the activities of the Commission during the preceding fiscal year. The annual report must include, without limitation, statistical information concerning the period for disposition of complaints and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The annual report must be made available to the public.

2. On or before September 30 of each odd-numbered year, the Commission shall prepare a biennial report summarizing the activities of the Commission during the preceding 2 fiscal years. The biennial report must include, without limitation, statistical information concerning the period for disposition of complaints and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The Commission shall file a copy of the biennial report with the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Chief Justice of the Supreme Court of Nevada, the Chairman of the Senate Standing Committee on Judiciary, the Chairman of the Assembly Standing Committee on Judiciary and the State Bar of Nevada. The biennial report must be made available to the public.

3. The information included in the annual and biennial reports prepared pursuant to this section must comply with any ~~applicable~~ and

all confidentiality requirements, ~~+~~ of applicable law and the rules of the Commission adopted pursuant to NRS 1.4695.

Sec. 14. 1. *The Commission may extend the limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act for good cause shown.*

2. *The limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act must be computed in the same manner as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure and must not include:*

(a) *Periods of delay at the request of or attributable to a judge other than the judge who is the subject of a complaint;*

(b) *Short periods of delay that are the result of the period between scheduled meetings of the Commission;*

(c) *Periods in which the judge who is the subject of a complaint and the Executive Director of the Commission or special counsel are negotiating an agreement; or*

(d) *Periods when the Commission is holding a complaint in abeyance pending the disposition of a court case relating to the complaint.*

3. *The Commission shall not dismiss a complaint or a formal statement of charges for failure to comply with the limitations of time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act unless the Commission determines such a delay is unreasonable and the rights of the judge to a fair hearing have been violated. The fact that an investigation has been conducted more than 24 months after the date the complaint was filed with the Commission is prima facie evidence of an unreasonable delay, which may be rebutted.*

Sec. 15. NRS 1.425 is hereby amended to read as follows:

1.425 As used in NRS 1.425 to 1.4695, inclusive, *and sections 1.5 to 14, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 1.426 ~~[to 1.429, inclusive.]~~, *1.427 and 1.428, and sections 1.5 to 9, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 1.427 is hereby amended to read as follows:

1.427 "Incapacitated" means unable to perform the duties of ~~[his]~~ office because of advanced age or mental or physical disability.

Sec. 17. NRS 1.428 is hereby amended to read as follows:

1.428 "Judge" means:

1. *A justice of the Supreme Court;*

2. *A judge of the district court;*

~~[2.]~~ 3. *A judge of the municipal court;*

~~[3.]~~ 4. *A justice of the peace; and*

~~[4.]~~ 5. *Any other officer of the Judicial Branch of this State, whether or not he is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee.*

Sec. 18. NRS 1.440 is hereby amended to read as follows:

1.440 1. The Commission has exclusive jurisdiction over the *public* censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

2. The Supreme Court shall appoint two justices of the peace or two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Justices of the peace and municipal judges so appointed must be designated by an order of the Supreme Court to sit for such proceedings in place of and to serve for the same terms as the regular members of the Commission appointed by the Supreme Court.

Sec. 19. NRS 1.465 is hereby amended to read as follows:

1.465 1. The following persons are absolutely immune from suit for all conduct at any time in the course of their official duties:

- (a) Any member who serves on the Commission;
- (b) Any person employed by the Commission;
- (c) Any independent contractor of the Commission; and
- (d) Any person who performs services pursuant to NRS 1.450 or 1.460 for the Commission.

2. ~~The~~ *Except as otherwise provided in NRS 1.4683, the* following persons are absolutely immune from suit unless convicted of committing perjury before the Commission pursuant to NRS 199.120 to 199.200, inclusive:

- (a) A person who files a complaint with the Commission pursuant to NRS 1.4655; ~~and~~
- (b) A person who gives testimony at a ~~public~~ hearing held by the Commission pursuant to NRS ~~1.467~~ *1.4673 or 1.4675; and*
- (c) *A person who gives a statement to an investigator of the Commission during an authorized investigation.*

Sec. 20. NRS 1.4653 is hereby amended to read as follows:

1.4653 1. The Commission may remove ~~]~~ *a judge, publicly* censure *a judge* or impose other forms of discipline on a ~~justice or~~ judge if the Commission determines that the ~~justice or~~ judge:

- (a) Has committed willful misconduct;
 - (b) Has willfully or persistently failed to perform the duties of his office;
- or
- (c) Is habitually intemperate.

2. The Commission may *publicly* censure *a judge* or impose other forms of discipline on a ~~justice or~~ judge if the Commission determines that the ~~justice or~~ judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate.

3. The Commission may retire a ~~justice or~~ judge if the Commission determines that:

- (a) The advanced age of the ~~justice or~~ judge interferes with the proper performance of his judicial duties; or

(b) The ~~justice or~~ judge suffers from a mental or physical disability that prevents the proper performance of his judicial duties and is likely to be permanent in nature.

4. As used in this section:

(a) "Habitual intemperance" means the chronic, excessive use of alcohol or another substance that affects mental processes, awareness or judgment.

(b) "Willful misconduct" includes:

(1) Conviction of ~~[a felony or of a misdemeanor]~~ **any crime** involving moral turpitude;

(2) A knowing or deliberate violation of one or more of the provisions of the Nevada Code of Judicial Conduct; **and**

(3) A knowing or deliberate act or omission in the performance of judicial or administrative duties that:

(I) Involves fraud or bad faith or amounts to a public offense; and

(II) Tends to corrupt or impair the administration of justice in a judicial proceeding. ~~;~~ **and**

~~(4) Knowingly or deliberately swearing falsely in testimony before the Commission or in documents submitted under oath to the Commission.]~~

↪ The term does not include claims of error or abuse of discretion in findings of fact, legal decisions or procedural rulings unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error or an action taken for a purpose other than the faithful discharge of judicial duty.

Sec. 21. NRS 1.4655 is hereby amended to read as follows:

1.4655 1. The Commission may begin an inquiry regarding the alleged misconduct or incapacity of a ~~justice or~~ judge upon the receipt of ~~;~~

~~(a) A written, sworn complaint from any person which alleges that the justice or judge has committed misconduct or is incapacitated; or~~

~~(b) Information from any source and in any format, from which the Commission may reasonably infer that the justice or judge may have committed misconduct or be incapacitated.~~

~~2. For the purposes of further inquiry and action by the Commission, information described in paragraph (b) of subsection 1 shall be deemed to be a complaint upon motion of the Commission.]~~ **a complaint.**

2. The Commission shall not consider complaints arising from acts or omissions that occurred more than 3 years before the date of the complaint or more than 1 year after the complainant knew or in the exercise of reasonable diligence should have known of the conduct, whichever is earlier, except that:

(a) Where there is a continuing course of conduct, the conduct will be deemed to have been committed at the termination of the course of conduct;

(b) Where there is a pattern of recurring judicial misconduct and at least one act occurs within the 3-year or 1-year period, as applicable, the

Commission may consider all prior acts or omissions related to that pattern; and

(c) Any period in which the judge has concealed or conspired to conceal evidence of misconduct is not included in the computation of the time limit for the filing of a complaint pursuant to this section.

3. Within 18 months after the receipt of a complaint pursuant to this section, the Commission shall:

(a) Dismiss the complaint with or without a letter of caution;

(b) Attempt to resolve the complaint informally as required pursuant to NRS 1.4665;

(c) Enter into a deferred discipline agreement pursuant to NRS 1.468;

(d) With the consent of the judge, impose discipline on the judge pursuant to an agreement between the judge and the Commission; or

(e) Authorize the filing of a formal statement of the charges based on a finding that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action.

Sec. 22. NRS 1.4657 is hereby amended to read as follows:

1.4657 1. The Commission shall, in accordance with its procedural rules, examine each complaint that it receives ~~[pursuant to NRS 1.4655]~~ to determine whether the complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653.]~~ *alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated.*

2. If the Commission determines that a complaint does not contain such allegations, the Commission shall dismiss the complaint ~~[]~~ *with or without a letter of caution. A letter of caution is not a form of discipline. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the letter of caution is not relevant to the misconduct alleged in the subsequent complaint.*

3. If the Commission determines that a complaint does contain such allegations, the Commission shall authorize further investigation . ~~[to be conducted in accordance with NRS 1.4663.]~~

Sec. 23. NRS 1.466 is hereby amended to read as follows:

1.466 1. During any stage of a disciplinary proceeding, including, but not limited to, an investigation ~~[to determine probable cause]~~ *pursuant to NRS 1.4663* and a formal hearing, the Commission may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, but not limited to, books, papers, documents, records, photographs, recordings, reports and tangible objects.

2. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Commission may, in accordance with its procedural rules, hold the witness in contempt and impose a reasonable penalty to enforce the subpoena.

3. If a witness continues to refuse to attend, testify or produce materials as required by the subpoena, the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials as required by the subpoena before the Commission, or has refused to answer questions propounded to him,

↳ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Commission.

4. Upon receipt of such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended, testified or produced materials before the Commission. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 24. NRS 1.4663 is hereby amended to read as follows:

1.4663 1. If the Commission determines pursuant to NRS 1.4657 that a complaint ~~contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653,~~ ***alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated,*** the Commission shall assign or appoint an investigator to conduct an investigation to determine whether the allegations have merit. ***The Commission may designate special counsel at any time after a complaint is filed with the Commission pursuant to NRS 1.4655.***

2. Such an investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct or incapacity contained in the complaint.

3. An investigator assigned or appointed by the Commission to conduct an investigation pursuant to this section may, for the purpose of investigation, compel by subpoena on behalf of the Commission the attendance of witnesses and the production of necessary materials as set forth in NRS 1.466.

4. At the conclusion of the investigation, the investigator shall prepare a written report of the investigation for review by the Commission.

Sec. 25. NRS 1.4665 is hereby amended to read as follows:

1.4665 1. ~~1.4665~~ ~~1. [If a]~~ *Except as otherwise provided in this section or in the procedural rules adopted by the Commission, the Commission shall use the same procedures with respect to allegations of incapacity as it uses with respect to allegations of misconduct.*

2. *The Commission shall attempt to resolve the following matters informally:*

(a) A complaint received by the Commission *which* alleges that a ~~justice or~~ judge is incapacitated ~~[, the Commission shall, after examining the complaint and conducting an investigation pursuant to NRS 1.4657 and 1.4663, attempt to resolve the matter informally.]~~;

(b) *A matter in which the preliminary investigation reveals that a judge may have a physical or mental disability; and*

(c) *A matter in which the judge raises a mental or physical disability as an issue before the filing of the formal statement of charges.*

3. *An informal resolution by the Commission pursuant to subsection 2 includes, without limitation:*

(a) *Voluntary retirement by the judge; and*

(b) *If the disability can be adequately addressed through treatment, a deferred discipline agreement pursuant to NRS 1.468.*

4. In attempting to resolve ~~the~~ a matter informally, the Commission may request that the ~~justice or~~ judge named in the complaint submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.

~~2.]~~ 5. If the Commission is unable to resolve the matter informally pursuant to subsection ~~1.]~~ 2, the Commission shall:

(a) Proceed as set forth in NRS 1.4667, 1.467 and 1.4673. ~~[If the matter proceeds to the point at which the prosecuting attorney files a statement of formal charges pursuant to NRS 1.467 and the justice or judge named in the complaint denies all or part of those charges, the Commission shall deem such a denial to be consent on the part of the justice or judge to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.]~~

(b) Unless the ~~justice or~~ judge has retained counsel at his own expense, appoint an attorney to represent the ~~justice or~~ judge at public expense.

6. *If a judge raises a mental or physical disability as an affirmative defense or in mitigation, the judge shall be deemed to have consented to medical, psychiatric or psychological testing and to have waived the psychologist-patient privilege, doctor-patient privilege, marriage and family therapist-client privilege and social worker-client privilege set forth in chapter 49 of NRS, as applicable. The Commission shall require the judge to produce his relevant medical records and to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the judge. If the judge refuses to produce medical records or submit to an examination, the Commission shall preclude the judge from presenting the medical records or evidence of*

the results of medical examinations conducted on behalf of the judge and may consider the refusal as evidence that the judge has an incapacity that seriously interferes with the performance of judicial duties of the judge and is likely to become permanent, or as evidence contradicting the claim of a disability by the judge as an affirmative defense or mitigating factor.

7. *If a judge raises a mental illness or other disability as a defense or mitigating factor in a proceeding alleging misconduct, the judge has the burden of proving by a preponderance of the evidence that:*

- (a) *He has a serious mental illness or other disability;*
- (b) *The mental illness or other disability caused the misconduct;*
- (c) *He has undergone or is undergoing treatment for the mental illness or other disability;*
- (d) *The treatment has abated the cause of the misconduct; and*
- (e) *The misconduct is not likely to recur.*

~~{3-}~~ 8. The findings of a physician ~~{appointed}~~ *selected* by the Commission pursuant to this section are not privileged communications.

~~{4-}~~ 9. The provisions of this section do not prohibit a ~~{justice or}~~ judge from having legal counsel and a physician of his choice present at a medical, psychiatric or psychological examination conducted pursuant to this section.

~~{5-}~~ 10. The Commission shall adopt procedural rules to carry out the provisions of this section.

Sec. 26. NRS 1.4667 is hereby amended to read as follows:

1.4667 1. The Commission shall review the report ~~{of an investigation conducted}~~ *prepared* pursuant to NRS 1.4663 to determine whether there is ~~{sufficient reason to proceed.}~~ *a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge.*

2. If the Commission determines that ~~{there is not sufficient reason to proceed.}~~ *such a reasonable probability does not exist*, the Commission shall dismiss the complaint ~~{}~~ *with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.*

3. If the Commission determines that ~~{it could, in all likelihood, make a determination in the affirmative pursuant to NRS 1.467.}~~ *such a reasonable probability exists*, the Commission shall require the ~~{justice or}~~ judge ~~{named in the complaint}~~ to respond to the complaint in accordance with procedural rules adopted by the Commission. ~~{If the justice or judge fails to respond to the complaint, the Commission shall deem such failure to be an admission that the facts alleged in the complaint:~~

- ~~1.—Are true; and~~
- ~~2.—Establish grounds for discipline pursuant to NRS 1.4653.~~

Sec. 27. NRS 1.467 is hereby amended to read as follows:

1.467 1. After ~~the justice or~~ a judge ~~named in the complaint~~ responds to the complaint *as required* pursuant to NRS 1.4667 , ~~and after considering that response and other relevant information,~~ the Commission shall make a finding of whether there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~justice or~~ judge . ~~named in the complaint pursuant to NRS 1.4653.~~

2. If the Commission ~~makes a finding~~ *finds* that such a reasonable probability does not exist, the Commission shall dismiss the complaint ~~[-]~~ *with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.*

3. If the Commission ~~makes a finding~~ *finds* that such a reasonable probability ~~does exist,~~ *exists, but reasonably believes that the misconduct would be addressed more appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into a deferred discipline agreement with the judge for a definite period as described in NRS 1.468.*

4. *The Commission shall not dismiss a complaint with a letter of caution or enter into a deferred discipline agreement with a judge if:*

(a) *The misconduct of the judge involves the misappropriation of money, dishonesty, deceit, fraud, misrepresentation or a crime that adversely reflects on the honesty, trustworthiness or fitness of the judge;*

(b) *The misconduct of the judge resulted or will likely result in substantial prejudice to a litigant or other person;*

(c) *The misconduct of the judge is part of a pattern of similar misconduct; or*

(d) *The misconduct of the judge is of the same nature as misconduct for which the judge has been publicly disciplined or which was the subject of a deferred discipline agreement entered into by the judge within the immediately preceding 5 years.*

5. *If the Commission finds that such a reasonable probability exists and that formal proceedings are warranted,* the Commission shall, in accordance with its procedural rules ~~[-]~~

~~(a) Designate a prosecuting attorney, who must] , designate special counsel to sign under oath and file with the Commission a formal statement of charges against the [justice or judge and file the statement with the Commission;~~

~~(b) Require that the justice or judge submit to the Commission an answer to the formal statement of charges; and~~

~~(c) Hold a formal, public hearing on the merits of the charges.~~

~~4.] judge.~~

6. *Within 20 days after service of the formal statement of charges, the judge shall file an answer with the Commission under oath.* If the ~~justice~~

~~or~~ judge fails to answer the formal statement of charges ~~pursuant to subsection 3,~~ *within that period*, the Commission shall deem such failure to be an admission that the charges set forth in the formal statement:

- (a) Are true; and
- (b) Establish grounds for discipline pursuant to NRS 1.4653.

7. The Commission shall adopt rules regarding disclosure and discovery after the filing of a formal statement of charges.

8. By leave of the Commission, a statement of formal charges may be amended at any time, before the close of the hearing, to allege additional matters discovered in a subsequent investigation or to conform to proof presented at the hearing if the judge has adequate time, as determined by the Commission, to prepare a defense.

Sec. 28. NRS 1.4673 is hereby amended to read as follows:

1.4673 ~~[After holding a formal hearing on the merits of the charges filed pursuant to NRS 1.467, the Commission shall, in accordance with its procedural rules, dismiss the charges or discipline the justice or judge]~~

1. Unless a deferred discipline agreement has been entered into with the judge pursuant to NRS 1.468, a hearing on a formal statement of charges must be held. If practicable, the hearing must be held not later than 60 days after:

- (a) *The judge files an answer; or*
- (b) *The date on which the time period for filing an answer expires if the judge has not filed an answer and has not filed with the Commission a request for an extension of time before the expiration of the period for filing the answer.*

2. If formal charges are filed against a judge:

(a) *The standard of proof in any proceedings following the formal statement of charges is clear and convincing evidence.*

(b) *The burden of proof rests on the special counsel except where otherwise provided by specific statute.*

(c) *The rules of evidence applicable to civil proceedings apply at a hearing held pursuant to subsection 1.*

3. Within 60 days after the conclusion of a hearing on a formal statement of charges, the Commission shall prepare and adopt written findings of fact and conclusions of law that:

(a) *Dismiss all or part of the charges, if the Commission determines that the grounds for discipline have not been proven by clear and convincing evidence; or*

(b) *Impose such disciplinary actions on the judge as deemed appropriate by the Commission [-], if the Commission determines that the grounds for discipline have been proven by clear and convincing evidence.*

Sec. 29. NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a ~~justice or~~ judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the ~~justice or~~ judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the ~~justice or~~ judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a ~~justice or~~ judge from the exercise of office without salary if the ~~justice or~~ judge:

(a) Pleads guilty, guilty but mentally ill or no contest to a charge of; or

(b) Is found guilty or guilty but mentally ill of,

↪ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the ~~justice or~~ judge must be paid his salary for the period of suspension.

3. *In addition to the grounds set forth in subsection 2, the Commission may suspend a judge from the exercise of office without salary if the Commission determines that the judge:*

(a) *Has committed serious and repeated willful misconduct;*

(b) *Has willfully or persistently failed to perform the duties of his office;*

or

(c) *Is habitually intemperate,*

↪ *and the Commission determines that the circumstances surrounding such conduct, including, without limitation, any mitigating factors, merit disciplinary action more severe than censure but less severe than removal.*

4. ~~{The}~~ *During any stage of a disciplinary proceeding, the Commission may suspend ~~{a justice or}~~ the judge from the exercise of office with salary pending a final disposition of the complaint if the Commission determines, ~~{pending a final determination in a judicial disciplinary proceeding,}~~ by a preponderance of the evidence, that the ~~justice or~~ judge poses a substantial threat of serious harm to the public or to the administration of justice.*

~~{4.}~~ 5. *The Commission shall give the judge 7 days' notice of its intention to suspend the judge pursuant to this section and shall give the judge an opportunity to respond. The Commission shall hold a public hearing before ordering such a suspension, unless the judge waives his right to the hearing. The decision of the Commission must be made public.*

6. A ~~justice or~~ judge suspended pursuant to this section may appeal the suspension to the Supreme Court. ~~{for reconsideration of the order.}~~

~~{5.}~~ *If a judge appeals such a suspension:*

(a) *The standard of review for such an appeal is an abuse of discretion standard; and*

(b) *The proceedings held at the Supreme Court concerning the suspension must be open to the public.*

7. *Within 60 days after a decision by the Commission to suspend a judge pursuant to this section, the Commission shall:*

(a) *Have a formal statement of charges filed against the judge;*

(b) *Rescind the suspension; or*

(c) Enter into a deferred discipline agreement with the judge pursuant to NRS 1.468.

8. The Commission may suspend a ~~justice or~~ judge pursuant to this section only in accordance with its procedural rules.

Sec. 30. NRS 1.4677 is hereby amended to read as follows:

1.4677 ~~[In addition to or in lieu of removal or censure, the Commission may impose other forms of discipline on a justice or judge whom the Commission determines to have committed an act or engaged in a behavior in violation of subsection 1 or 2 of NRS 1.4653, including, but not limited to, requiring the justice or judge to:]~~

1. *Pursuant to a deferred discipline agreement with the judge entered into pursuant to NRS 1.468 or based on a finding of misconduct following a hearing on a formal statement of charges, the Commission may take one or more of the following actions:*

(a) Publicly admonish, publicly reprimand or publicly censure a judge.

(b) ~~Pay~~ Impose a fine ~~[-~~

2. ~~Serve a term of suspension~~ upon the judge.

(c) Suspend the judge from office ~~[-~~

3.] without pay.

(d) Require the judge to:

(1) Complete a probationary period pursuant to conditions deemed appropriate by the Commission.

~~[4.]~~ (2) Attend training or educational courses.

~~[5.]~~ (3) Follow a remedial course of action.

~~[6.]~~ (4) Issue a public apology.

~~[7.]~~ (5) Comply with conditions or limitations on his future conduct.

~~[8.]~~ (6) Seek medical, psychiatric or psychological care or counseling and direct the provider of health care or counselor to report to the Commission regarding the condition or progress of the ~~justice or~~ judge.

~~[9. — Agree not to seek]~~

(e) Bar the judge from serving in a judicial office in the future.

~~[10. — Perform any combination of the actions set forth in this section.]~~

(f) Impose any other reasonable disciplinary action or combination of disciplinary actions that the Commission determines will curtail or remedy the misconduct of the judge.

2. *The Commission may publicly admonish a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate and for which there are no aggravating factors.*

3. *The Commission may publicly reprimand a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is:*

(a) Not knowing or deliberate but for which there are aggravating factors; or

(b) Knowing or deliberate but for which there are mitigating factors.

Sec. 31. NRS 1.468 is hereby amended to read as follows:

1.468 1. Except as otherwise provided in subsections 2 and 3, if the Commission reasonably believes that a ~~justice-of-~~ judge has committed an act or engaged in a behavior that would be addressed most appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the ~~justice-of-~~ judge to defer formal disciplinary proceedings and require the ~~justice-of-~~ judge to undergo the rehabilitation, treatment, education or minor corrective action.

2. The Commission may not enter into an agreement with a ~~justice-of-~~ judge to defer formal disciplinary proceedings if the Commission has determined, pursuant to NRS 1.467, that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~justice-of-~~ judge pursuant to NRS 1.4653.

3. The Commission may enter into an agreement with a ~~justice-of-~~ judge to defer formal disciplinary proceedings only in response to misconduct that is minor in nature.

4. A deferred discipline agreement entered into pursuant to this section must be in writing and must specify the conduct that resulted in the agreement. A judge who enters into such an agreement must agree:

(a) To the specified rehabilitation, treatment, education or minor corrective action;

(b) To waive his right to a hearing before the Commission; and

(c) That the agreement will not be protected by confidentiality for the purpose of any subsequent disciplinary proceedings against the judge, and the agreement must indicate that the judge agreed to the terms set forth in paragraphs (a), (b) and (c). Such an agreement must expressly authorize the Commission to revoke the agreement and proceed with any other disposition of the complaint or formal statement of charges authorized by NRS 1.467 if the Commission finds that the judge has failed to comply with a condition of the agreement.

5. The Executive Director of the Commission shall monitor the compliance of the judge with the agreement. The Commission may require the judge to document his compliance with the agreement. The Commission shall give the judge written notice of any alleged failure to comply with any condition of the agreement and shall allow the judge not less than 15 days to respond.

6. If the judge complies in a satisfactory manner with the conditions imposed in the agreement, the Commission may dismiss the complaint or take any other appropriate action.

Sec. 32. NRS 1.4683 is hereby amended to read as follows:

1.4683 1. Except as otherwise provided in this section and NRS ~~[1.4693]~~ **1.4675** and 239.0115, all proceedings of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the ~~[prosecuting attorney]~~ *special counsel* files a formal statement of charges.

2. *Except as otherwise provided in this section, before the filing of a formal statement of charges, a present or former member of the Commission, a present or former member of the staff of the Commission or a present or former independent contractor retained by the Commission shall not disclose information contained in a complaint or any other information relating to the allegations of misconduct or incapacity. Such persons:*

(a) *May disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the complaint; and*

(b) *Shall conduct themselves in a manner that maintains the confidentiality of the disciplinary proceeding.*

3. *Nothing in this section prohibits a person who files a complaint with the Commission pursuant to NRS 1.4655, a judge against whom such a complaint is made or a witness from disclosing at any time the existence or substance of a complaint, investigation or proceeding. The immunity provided by NRS 1.465 does not apply to such a disclosure.*

4. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission, ~~[or]~~ its staff *or any independent contractors retained by the Commission* in the course of its work and relating to the alleged misconduct or incapacity of a judge.

~~[3.]~~ 5. The Commission shall disclose:

(a) The report of a proceeding before the Commission; and

(b) All testimony given and all materials filed in connection with such a proceeding,

↳ if a witness is prosecuted for perjury committed during the course of that proceeding.

~~[4.—If the Commission determines at any stage in a disciplinary proceeding that there is an insufficient factual or legal basis to proceed, the Commission shall dismiss the complaint and may, at the request of the justice or judge named in the complaint, publicly issue an explanatory statement.~~

~~5.—The Commission may issue press releases and other public statements to:~~

~~(a) Explain the nature of its jurisdiction;~~

~~(b) Explain the procedure for filing a complaint;~~

~~(c) Explain limitations upon its powers and authority; and~~

~~(d) Report on the conduct of its affairs.~~

↳ Such releases and statements must not, without the consent of the justice or judge concerned, disclose by name, position, address or other information

~~the identity of a justice or judge or other person involved in a proceeding then pending before the Commission or that has been resolved without an order of censure, removal or retirement, unless formal charges have been filed after a determination pursuant to NRS 1.467.]~~

6. *Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if the judge, a third person or the person who filed a complaint with the Commission pursuant to NRS 1.4655 has made the name of the judge against whom such a complaint is made public, the Commission may, at the request of the judge or on its own accord, issue an explanatory statement to maintain confidence in the judicial system and the Commission. In such a statement, the Commission may:*

- (a) Confirm or deny that a complaint has been filed;*
- (b) Confirm or deny that the Commission is conducting an investigation;*
- (c) Confirm that the Commission has dismissed a complaint with or without a letter of caution; and*
- (d) Confirm that the Commission has entered into a deferred discipline agreement with the judge.*

7. *In addition to the information authorized pursuant to subsection 6, a statement issued by the Commission pursuant to subsection 6 may correct any public misinformation concerning the disciplinary proceeding, clarify the procedures of the Commission relating to the disciplinary proceeding and explain that the judge has a right to a fair investigation and, if applicable, a fair hearing without prejudgment. The Commission shall submit such a statement to the judge concerned for comments before the Commission releases the statement. The Commission is not required to incorporate any comments made by the judge in the statement and may release the statement as originally drafted.*

8. The Commission may, without disclosing the name of or any details that may identify the ~~justice or~~ judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Fund established pursuant to NRS 353.266.

~~{7-}~~ 9. No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection ~~{1}~~ 4 of NRS 1.4665 may be made public at any time without the consent of the ~~justice or~~ judge concerned.

10. *Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, the Commission may release confidential information:*

- (a) To the appropriate law enforcement or prosecuting authorities if the Commission determines that it has reliable information which reveals possible criminal conduct by a judge, former judge or any other person;*

(b) Upon request to the Board of Governors of the State Bar of Nevada or other appropriate disciplinary authorities of the State Bar of Nevada if the Commission determines that it has reliable information that reveals a possible violation of the Rules of Professional Conduct by a judge, former judge or any other attorney; or

(c) Pursuant to an order issued by a court of record of competent jurisdiction in this State or a federal court of record of competent jurisdiction.

11. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if a judge or former judge signs a waiver, the Commission may release confidential information concerning any complaints filed with the Commission pursuant to NRS 1.4655 that are pending or are closed and did not result in a dismissal to:

(a) An agency authorized to investigate the qualifications of persons for admission to practice law;

(b) An appointing or nominating authority or a state or federal agency lawfully conducting investigations relating to the selection or appointment of judges; or

(c) An agency conducting investigations relating to employment with a governmental agency or other employment.

12. If the Commission discloses information concerning a pending complaint to an agency or authority pursuant to subsection 11, the Commission shall subsequently disclose the disposition of the complaint to the agency or authority. The Commission shall send a copy of all information disclosed pursuant to subsection 11 to the judge concerned at the same time the Commission sends the information to the agency or authority.

Sec. 33. NRS 1.4687 is hereby amended to read as follows:

1.4687 ~~Upon~~

1. Except as otherwise provided in subsection 2:

(a) Upon the filing of a formal statement of charges with the Commission by the ~~prosecuting attorney,~~ special counsel, the statement and other documents later formally filed with the Commission must be made accessible to the public, and hearings must be open.

(b) If a formal statement of charges has not been filed with the Commission and the Commission holds a hearing to suspend a judge pursuant to NRS 1.4675, any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

2. Regardless of whether any formal statement of charges has been filed with the Commission, medical records and any other documents or exhibits offered as evidence which are privileged pursuant to chapter 49 of NRS must not be made accessible to the public.

3. The Commission's deliberative sessions must remain private.

4. The filing of ~~the~~ a formal statement of charges does not justify the Commission, its counsel, ~~or~~ staff or independent contractors retained by

the Commission in making public any correspondence, notes, work papers, interview reports or other evidentiary matter, except at the formal hearing or with explicit consent of the ~~justice or~~ judge named in the complaint.

Sec. 34. NRS 1.429, 1.4685 and 1.4693 are hereby repealed.

Sec. 35. 1. The amendatory provisions of this act apply only to:

(a) A complaint filed with the Commission on Judicial Discipline on or after January 1, 2010; and

(b) Any formal statement of charges filed with the Commission on or after January 1, 2010, as a result of a complaint described in paragraph (a).

2. As used in this section:

(a) "Complaint" has the meaning ascribed to it in section 3 of this act.

(b) "Formal statement of charges" has the meaning ascribed to it in section 4 of this act.

Sec. 36. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTIONS

1.429 "Justice" defined. "Justice" means a justice of the Supreme Court of the State of Nevada.

1.4685 Breach of confidentiality punishable as contempt. Except as otherwise provided in NRS 1.4693, any person who breaches the confidentiality of disciplinary proceedings of the Commission is punishable for contempt.

1.4693 Authorized disclosures by person who files complaint and person who gives testimony. Notwithstanding the provisions of NRS 1.4683 to 1.469, inclusive:

1. A person who files a complaint with the Commission may:

(a) At any time, reveal to a third party the alleged conduct of a justice or judge underlying the complaint that he filed with the Commission or the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he filed a complaint with the Commission.

2. A person who gives testimony before the Commission may:

(a) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he gave testimony before the Commission.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 496.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 500.

The following Senate amendment was read:

Amendment No. 752.

AN ACT relating to domestic relations; revising provisions relating to adoptions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) **Section 2** of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

Section 11 of this bill ~~revises an exemption from criminal or civil liability for certain advertising mediums which accept advertisements~~ **requires a child-placing agency licensed by the Division of Child and Family Services of the Department of Health and Human Services to include certain information confirming its licensure in any advertisement concerning its** ~~services related to adoptions from persons or agencies that are not licensed to provide such~~ services. (NRS 127.310)

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

A person to whom consent to adopt a child is given for a specific adoption pursuant to NRS 127.053 has, at the time the consent is executed, legal custody over the child and is legally responsible for the child until a court holds a hearing to enter an order or decree of adoption or to deny the petition pursuant to the laws of this State or another state.

Sec. 3. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, *and section 2 of this act* govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, *and section 2 of this act*, where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 127.310 is hereby amended to read as follows:

127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and 127.285, any person or organization other than an agency which provides child welfare services who, without holding a valid unrevoked license to place children for adoption issued by the Division:

(a) Places, arranges the placement of, or assists in placing or in arranging the placement of, any child for adoption or permanent free care; or

(b) Advertises in any periodical or newspaper, or by radio or other public medium, that he will place children for adoption, or accept, supply, provide or obtain children for adoption, or causes any advertisement to be published in or by any public medium soliciting, requesting or asking for any child or children for adoption,

↪ is guilty of a misdemeanor.

2. Any person who places, accepts placement of, or aids, abets or counsels the placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is guilty of a misdemeanor.

3. A periodical, newspaper, radio station or other public medium is not subject to any criminal penalty or civil liability for publishing or broadcasting an advertisement that violates the provisions of this section unless the periodical, newspaper, radio station or other public medium knew that the advertisement violated the provisions of this section.

4. A child-placing agency shall include in any advertisement concerning its services published in any periodical or newspaper or by radio or other public medium a statement which:

(a) Confirms that the child-placing agency holds a valid, unrevoked license issued by the Division; and

(b) Indicates any license number issued to the child-placing agency by the Division.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. The amendatory provisions of sections 2 and 3 of this act apply to a petition for adoption that is filed pursuant to chapter 127 of NRS before, on or after October 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 500.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 471.

The following Senate amendment was read:

Amendment No. 728.

AN ACT relating to real property; providing that a deficiency in payment on a mortgage, deed of trust or other encumbrance may be cured under certain circumstances before foreclosure; providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides a right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale at any time not later than 5 days before the date of sale.

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. (NRS 40.455) **Section 2** of this bill provides that if the judgment creditor or the beneficiary of the deed of trust is a financial institution, a court may not award a deficiency judgment to ~~the~~ judgment creditor or ~~the~~ beneficiary of ~~the~~ deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 3 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

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

Section 1. 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. *At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the*

recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

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

~~4.~~ 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. 2. NRS 40.455 is hereby amended to read as follows:

40.455 1. ~~Upon~~ ***Except as otherwise provided in subsection 3, upon*** application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. ~~The~~ ***If the judgment creditor or the beneficiary of the deed of trust is a financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:***

(a) *The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;*

(b) *The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;*

(c) *The debtor or grantor continuously occupied the real property as his principal residence after securing the mortgage or deed of trust; and*

(d) *The debtor or grantor did not refinance the mortgage or deed of trust after securing it.*

4. ***As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.***

Sec. 3. The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 471.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 325.

The following Senate amendment was read:

Amendment No. 692.

AN ACT relating to sex offenders; prohibiting persons who are convicted of certain sexual offenses from having contact with a victim or witness; **revising provisions relating to the confidentiality of records and reports that reveal identity in cases involving certain offenses;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a person is convicted of certain sexual offenses and the court grants probation or suspends the sentence of the defendant, or if such a person is released on parole, that person must not have any contact with the victim or a witness who testified against him unless approved by a parole and probation officer. (NRS 176A.410, 213.1245) **Sections 1 and 2.5** of this bill provide that such a person may not have any such contact unless approved in writing by the Chief Parole and Probation Officer or his designee. **Section 2** of this bill similarly prohibits a sex offender under lifetime supervision from having any contact with a victim or a witness who testified against him unless approved in writing by the Chief. (NRS 213.1243)

Sections 1.1-1.5 of this bill expand the prohibition on the public disclosure of the identity of a victim of a sexual assault to include a victim of statutory sexual seduction or sexual conduct involving a pupil or student.

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

Section 1. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime.

(b) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the defendant.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer assigned to the defendant informed of his current address.

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.

(e) Participate in and complete a program of professional counseling approved by the Division.

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance.

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant.

(h) Abstain from consuming, possessing or having under his control any alcohol.

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the ~~parole and probation officer assigned to the defendant,~~ **Chief Parole and Probation Officer or his designee** and a written agreement is entered into and signed in the manner set forth in subsection 5.

(j) Not use aliases or fictitious names.

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant.

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a defendant who is a Tier III offender.

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant.

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant.

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant.

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is a Tier III offender and the court grants probation or suspends the sentence of the defendant, the court shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; ~~and~~
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[-];~~ **and**

(f) The Chief Parole and Probation Officer or his designee.

6. The court is not required to impose a condition of probation or suspension of sentence listed in subsections 1 and 2 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 1.1. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3774, inclusive, unless the context otherwise requires:

1. ***"Offense involving a pupil" means any of the following offenses:***
 - (a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.***
 - (b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.***
2. ***"Perpetrator" means a person who commits a sexual ~~assault~~ offense or an offense involving a pupil.***
- ~~2.~~ 3. ***"Sexual offense" means any of the following offenses:***
 - (a) Sexual assault pursuant to NRS 200.366.***
 - (b) Statutory sexual seduction pursuant to NRS 200.368.***
4. ***"Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or***

inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.

~~§ 5.~~ "Statutory sexual seduction" means:

(a) Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 years; or

(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.

~~§ 6.~~ "Victim" means a person who is ~~subjected to~~ a victim of a sexual ~~assault~~ offense or an offense involving a pupil.

Sec. 1.2. NRS 200.377 is hereby amended to read as follows:

200.377 The Legislature finds and declares that:

1. This State has a compelling interest in assuring that the victim of a sexual ~~assault~~ offense or an offense involving a pupil:

(a) Reports the ~~assault~~ sexual offense or offense involving a pupil to the appropriate authorities;

(b) Cooperates in the investigation and prosecution of the ~~assault~~ sexual offense or offense involving a pupil; and

(c) Testifies at the criminal trial of the person charged with committing the ~~assault~~ sexual offense or offense involving a pupil.

2. The fear of public identification and invasion of privacy are fundamental concerns for the victims of sexual ~~assault~~ offenses or offenses involving a pupil. If these concerns are not addressed and the victims are left unprotected, the victims may refrain from reporting and prosecuting sexual ~~assaults~~ offenses or offenses involving a pupil.

3. A victim of a sexual ~~assault~~ offense or an offense involving a pupil may be harassed, intimidated and psychologically harmed by a public report that identifies the victim. A sexual ~~assault~~ offense or an offense involving a pupil is, in many ways, a unique, distinctive and intrusive personal trauma. The consequences of identification are often additional psychological trauma and the public disclosure of private personal experiences.

4. Recent public criminal trials have focused attention on these issues and have dramatized the need for basic protections for the victims of sexual ~~assault~~ offenses or offenses involving a pupil.

5. The public has no overriding need to know the individual identity of the victim of a sexual ~~assault~~ offense or an offense involving a pupil.

6. The purpose of NRS 200.3771 to 200.3774, inclusive, is to protect the victims of sexual ~~assault~~ offenses and offenses involving a pupil from harassment, intimidation, psychological trauma and the unwarranted invasion of their privacy by prohibiting the disclosure of their identities to the public.

Sec. 1.3. NRS 200.3771 is hereby amended to read as follows:

200.3771 1. Except as otherwise provided in this section, any information which is contained in:

- (a) Court records, including testimony from witnesses;
- (b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;
- (c) Records of criminal history, as that term is defined in NRS 179A.070; and
- (d) Records in the Central Repository for Nevada Records of Criminal History,

↳ that reveals the identity of a victim of a sexual ~~[assault]~~ offense or an offense involving a pupil is confidential, including but not limited to the victim's photograph, likeness, name, address or telephone number.

2. A defendant charged with a sexual ~~[assault]~~ offense or an offense involving a pupil and his attorney are entitled to all identifying information concerning the victim in order to prepare the defense of the defendant. The defendant and his attorney shall not disclose this information except, as necessary, to those persons directly involved in the preparation of the defense.

3. A court of competent jurisdiction may authorize the release of the identifying information, upon application, if the court determines that:

- (a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the disclosure;
- (b) The disclosure will not place the victim at risk of personal harm; and
- (c) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

4. Nothing in this section prohibits:

- (a) Any publication or broadcast by the media concerning a sexual ~~[assault]~~ offense or an offense involving a pupil.
- (b) The disclosure of identifying information to any nonprofit organization or public agency whose purpose is to provide counseling, services for the management of crises or other assistance to the victims of crimes if:

(1) The organization or agency needs identifying information of victims to offer such services; and

(2) The court or a law enforcement agency approves the organization or agency for the receipt of the identifying information.

5. The willful violation of any provision of this section or the willful neglect or refusal to obey any court order made pursuant thereto is punishable as criminal contempt.

Sec. 1.4. NRS 200.3772 is hereby amended to read as follows:

200.3772 1. A victim of a sexual ~~[assault]~~ offense or an offense involving a pupil may choose a pseudonym to be used instead of the victim's name on all files, records and documents pertaining to the sexual ~~[assault]~~ offense or offense involving a pupil, including, without limitation, criminal intelligence and investigative reports, court records and media releases.

2. A victim who chooses to use a pseudonym shall file a form to choose a pseudonym with the law enforcement agency investigating the sexual

offense ~~[]~~ or offense involving a pupil. The form must be provided by the law enforcement agency.

3. If the victim files a form to use a pseudonym, as soon as practicable the law enforcement agency shall make a good faith effort to:

(a) Substitute the pseudonym for the name of the victim on all reports, files and records in the agency's possession; and

(b) Notify the prosecuting attorney of the pseudonym.

↪ The law enforcement agency shall maintain the form in a manner that protects the confidentiality of the information contained therein.

4. Upon notification that a victim has elected to be designated by a pseudonym, the court shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the sexual ~~[assault]~~ offense or offense involving a pupil.

5. The information contained on the form to choose a pseudonym concerning the actual identity of the victim is confidential and must not be disclosed to any person other than the defendant or his attorney unless a court of competent jurisdiction orders the disclosure of the information. The disclosure of information to a defendant or his attorney is subject to the conditions and restrictions specified in subsection 2 of NRS 200.3771. A person who violates this subsection is guilty of a misdemeanor.

6. A court of competent jurisdiction may order the disclosure of the information contained on the form only if it finds that the information is essential in the trial of the defendant accused of the sexual ~~[assault]~~ offense or offense involving a pupil or the identity of the victim is at issue.

7. A law enforcement agency that complies with the requirements of this section is immune from civil liability for unknowingly or unintentionally:

(a) Disclosing any information contained on the form filed by a victim ~~[of sexual assault]~~ pursuant to this section that reveals the identity of the victim; or

(b) Failing to substitute the pseudonym of the victim for the name of the victim on all reports, files and records in the agency's possession.

Sec. 1.5. NRS 200.3773 is hereby amended to read as follows:

200.3773 1. A public officer or employee who has access to any records, files or other documents which include the photograph, likeness, name, address, telephone number or other fact or information that reveals the identity of a victim of a sexual ~~[assault]~~ offense or an offense involving a pupil shall not intentionally or knowingly disclose the identifying information to any person other than:

(a) The defendant or his attorney;

(b) A person who is directly involved in the investigation, prosecution or defense of the case;

(c) A person specifically named in a court order issued pursuant to NRS 200.3771; or

(d) A nonprofit organization or public agency approved to receive the information pursuant to NRS 200.3771.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 1.6. NRS 200.3774 is hereby amended to read as follows:

200.3774 The provisions of NRS 200.3771, 200.3772 and 200.3773 do not apply if the victim of the sexual ~~assault~~ **offense or offense involving a pupil** voluntarily waives, in writing, the confidentiality of the information concerning the victim's identity.

Sec. 2. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 offender.

5. Except as otherwise provided in subsection 9, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 offender and the

sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 4 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

9. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3, 4 and 5 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

10. ***The Board shall require as a condition of lifetime supervision that the sex offender not have contact or communicate with a victim of the sexual offense or a witness who testified against the sex offender or solicit another person to engage in such contact or communication on behalf of***

the sex offender, unless approved by the Chief or his designee and a written agreement is entered into and signed.

11. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

~~11~~ 12. For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

Sec. 2.5. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.097, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the parolee.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The parolee keeps the parole and probation officer informed of his current address.

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee.

(d) Participate in and complete a program of professional counseling approved by the Division.

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance.

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee.

(g) Abstain from consuming, possessing or having under his control any alcohol.

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved

by the ~~[parole and probation officer assigned to the parolee.]~~ *Chief or his designee* and a written agreement is entered into and signed in the manner set forth in subsection 2.

(i) Not use aliases or fictitious names.

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee.

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.097 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact.

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a parolee who is a Tier 3 offender.

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee.

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee.

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee.

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

- (c) The parole and probation officer assigned to the parolee;
- (d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; ~~and~~
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[-]~~; **and**
- (f) ***The Chief or his designee.***

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 3. (Deleted by amendment.)

Sec. 4. The amendatory provisions of this act apply to a person who is convicted on or after October 1, 2009.

Assemblyman Horne moved that the Assembly concur in the Senate amendment to Assembly Bill No. 325.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 15.

The following Senate amendment was read:

Amendment No. 774.

AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; ~~providing that any local ordinance that requires the sterilization of dogs may not be enforced with respect to certain dogs;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) **Section 1** of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance. **Section 1** further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance. **Sections 2 and 3** of this bill require a retailer or dealer who sells a dog or cat to disclose to the purchaser **the name and address of the breeder of the dog or cat and** any sterilization requirements for the animal required by local ordinance. (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State

Department of Agriculture in an amount not to exceed \$250 for the first violation, \$500 for the second violation and \$1,000 for each subsequent violation. (NRS 574.485) ~~[Section 3 also provides that any local ordinance which requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily for hunting, purposes relating to farming or agriculture, breeding or drawing heavy loads, or as a service animal or service animal in training.]~~

Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensed veterinarian shall post written notice in a conspicuous place in his office of any sterilization requirements for dogs or cats required by local ordinance.

2. A governmental entity with jurisdiction over a public park in which dogs or cats are allowed shall post written notice in a conspicuous place in the park of any sterilization requirements for dogs or cats required by local ordinance.

3. As used in this section, "licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

Sec. 2. NRS 574.460 is hereby amended to read as follows:

574.460 1. A retailer or dealer shall, before selling a cat, provide the purchaser of the cat with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the cat was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the cat and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the cat ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the cat's sire and dam with the appropriate breed registry or any health certifications from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the cat before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) Any sterilization requirements for the cat required by local ordinance.

(h) The medical history of the cat, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and determined that the cat did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the cat is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the cat, if applicable.***

(4) The name and address of the veterinarian who performed the examinations, ~~or~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~(h)~~ (i) That a copy of the veterinarian's evaluation of the health of the cat made pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

Sec. 3. NRS 574.470 is hereby amended to read as follows:

574.470 1. A retailer or dealer shall, before selling a dog, provide the purchaser of the dog with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the dog was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the dog and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the dog ~~if any~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the dog's sire and dam with the appropriate breed registry or any health certificates from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the dog before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the dog required by local ordinance.***

(h) The medical history of the dog, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and determined that the dog did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the dog is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and, if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) *The date on which the veterinarian sterilized the dog, if applicable.*

(4) The name and address of the veterinarian who performed the examinations, ~~or~~ reexaminations *or sterilization* or administered any treatments or medications.

~~(h)~~ (i) That a copy of the veterinarian's evaluation of the health of the dog performed pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

~~3. Any local ordinance that requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily:~~

~~(a) For hunting;~~

~~(b) For purposes relating to farming or agriculture;~~

~~(c) For breeding;~~

~~(d) For drawing heavy loads; or~~

~~(e) As a service animal or a service animal in training, as those terms are defined in NRS 426.097 and 426.099, respectively.]~~

Sec. 4. NRS 574.500 is hereby amended to read as follows:

574.500 A retailer, dealer or operator shall not separate a dog or cat from its mother until it is **8 weeks of age or** accustomed to taking food or nourishment other than by nursing ~~it~~, **whichever is later.**

Assemblyman Claborn moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 15.

Remarks by Assemblyman Claborn.

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

Assembly in recess at 2:13 p.m.

ASSEMBLY IN SESSION

At 2:21 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Claborn withdrew the motion that the Assembly do not concur with Senate Amendment No. 774 to Assembly Bill No. 15.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 21, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 47.

MARK STEVENS

Fiscal Analysis Division

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 458.

The following Senate amendment was read:

Amendment No. 883.

AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; reallocating money reverted from the State Distributive School Account; revising the provisions governing certain tax abatements and credits available for economic development; reallocating a portion of the property taxes levied on property in a redevelopment area; revising the provisions requiring certain redevelopment agencies to set aside revenue for low-income housing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the K-12 Public Education Stabilization Account within the Fund to Stabilize the Operation of the State Government and requires the State Controller to deposit any money reverted from the State Distributive School Account at the close of each odd-numbered fiscal year into that Account and into the Account for Programs for Innovation and the Prevention of Remediation. (Chapter 353 of NRS) **Section 5** of this bill authorizes the Superintendent of Public Instruction to request from the Legislature, if the Legislature is in session, an allocation from the K-12 Public Education Stabilization Account if a shortfall exists in the State Distributive School Account. If the Legislature is not in session, **section 6** of this bill authorizes the Superintendent to submit such a request to the Interim Finance Committee. **Section 4 of this bill provides that all available allocations must be made from the K-12 Public Education Stabilization Account to cover a shortfall in the State Distributive School Account before any allocation to cover the shortfall is made from the Fund to**

Stabilize the Operation of the State Government. Existing law authorizes the Chief of the Budget Division of the Department of Administration, with the approval of the Governor, to set aside reserves to meet emergencies arising during a fiscal year. (NRS 353.225) **Section 7** of this bill limits the amount that may be set aside as proposed reserves for the State Distributive School Account and certain other funds and accounts for education to the average that is reserved for all other departments, institutions and agencies. **Section 7** also requires the Chief to submit a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account in lieu of setting aside a reserve in the State Distributive School Account and certain other funds and accounts for education.

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) **Sections 8-10, 13, 16-18, 26, 28, 29 and 31-33** of this bill exclude local school support taxes from such a partial abatement of local sales and use taxes. **Sections 16-18 and 29** also limit the duration and amount of such a partial abatement of property taxes. **Section 27** of this bill requires the Commission to adopt regulations for determining the duration and amount of those partial abatements, to establish sanctions for the failure of a business to comply with the eligibility requirements for those partial abatements and to require the annual submission of information to determine compliance with those eligibility requirements, and authorizes the Department of Taxation to impose those sanctions.

Existing law authorizes certain businesses located within a zone for economic development to obtain, pursuant to an agreement with the governing body of the municipality designating the zone for economic development, a credit against or refund of local sales and use taxes. (NRS 274.270, 374.643) **Sections 9-15 and 33** of this bill exclude local school support taxes from such a credit or refund.

Existing law authorizes the reallocation to a redevelopment agency of certain property taxes levied in a redevelopment area. (NRS 279.676) **Sections 19-23 and 36** of this bill require the deposit of a portion of the amount of those taxes that would otherwise be reallocated to a redevelopment agency for the next 2 fiscal years into the State Distributive School Account and for succeeding fiscal years into the K-12 Public Education Stabilization Account.

Under existing law, a redevelopment agency of a city whose population is 300,000 or more, as determined by the last decennial census (currently Las Vegas only), is required to set aside for low-income housing at least 18 percent of its tax revenue from a redevelopment area. (NRS 0.050, 279.685) **Section 24** of this bill reduces the minimum amount of that set-aside to 15

percent, and requires an agency of a city that attains a population of 300,000 or more in the future, as determined from the populations of cities as certified annually by the Governor, to set aside for low-income housing at least 3 percent of its tax revenue from a redevelopment area for the first fiscal year and to increase that minimum percentage each fiscal year until it reaches a minimum amount of 15 percent.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. **1. *The K-12 Public Education Stabilization Account is hereby created in the Fund to Stabilize the Operation of the State Government created by NRS 353.288.***

2. *The State Controller shall, after the close of each odd-numbered fiscal year and before the issuance of the State Controller's annual report, transfer from the State General Fund:*

(a) *Fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379. Money transferred pursuant to this paragraph to the Account for Programs for Innovation and the Prevention of Remediation is hereby appropriated as a continuing appropriation solely for the purpose of carrying out the provisions of NRS 385.3781 to 385.379, inclusive.*

(b) *Except as otherwise provided in subsection 3, fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year to the K-12 Public Education Stabilization Account. Money transferred pursuant to this paragraph to the Account is hereby appropriated as a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in sections 2 to 6, inclusive, of this act.*

3. *The balance in the K-12 Public Education Stabilization Account must not exceed 20 percent of the combined sum of:*

(a) *The total anticipated apportionments pursuant to NRS 387.124 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made;*

(b) *The total anticipated local revenue pursuant to NRS 387.1235 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made; and*

(c) *The amount established by the Legislature for the reduction of pupil-teacher ratios pursuant to NRS 388.700 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made.*

4. *The money in the K-12 Public Education Stabilization Account may only be allocated by the Legislature or, if the Legislature is not in session, the Interim Finance Committee, pursuant to sections 2 to 6, inclusive, of this act. Not more than 50 percent of the money in the Account may be so allocated in even-numbered fiscal years.*

5. *Except as otherwise provided in subsection 3, the interest and income earned on the sum of:*

- (a) The money in the K-12 Public Education Stabilization Account; and*
- (b) Unexpended appropriations made to the Account from the State General Fund,*

General Fund,

↪ must be credited to the Account. If the amount of such credit would cause the Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3, the amount of such excess credit must be deposited for credit to the Fund to Stabilize the Operation of the State Government or, if the amount of such excess credit would cause that Fund to exceed the maximum allowed balance in that Fund established pursuant to subsection 2 of NRS 353.288, the amount of such excess credit must be deposited for credit to the State General Fund.

6. *The money in the K-12 Public Education Stabilization Account must not be used to replace or supplant money otherwise available from other sources for the operation of the K-12 public schools in this State.*

7. *The actual or projected balance of money in the K-12 Public Education Stabilization Account must not be included in the calculation of the basic support guarantee per pupil established for each school year pursuant to NRS 387.122 or the basic support guarantee for special education program units established pursuant to NRS 387.1221.*

Sec. 4. 1. *For purposes of sections 5 and 6 of this act, a shortfall exists in the State Distributive School Account if the projections of local revenue pursuant to NRS 387.1235 are at least 2 percent less than what was anticipated when the Legislature determined the amount of basic support for the biennium.*

2. *If a shortfall exists in the State Distributive School Account:*

(a) An allocation to cover the shortfall must be made from the K-12 Public Education Stabilization Account in accordance with the provisions of section 5 or 6 of this act before any allocation to cover the shortfall is made from the Fund to Stabilize the Operation of the State Government; and

(b) No allocation to cover the shortfall may be made from the Fund to Stabilize the Operation of the State Government until all money which is available in the K-12 Public Education Stabilization Account for allocation to cover the shortfall has been so allocated.

Sec. 5. 1. *If there is a shortfall in the State Distributive School Account and the Legislature is in session, the Superintendent of Public Instruction may submit a request for an allocation from the K-12 Public*

Education Stabilization Account to the Director of the Legislative Counsel Bureau for transmission to the Legislature.

2. If the Legislature finds that an allocation should be made from the K-12 Public Education Stabilization Account, the Legislature shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the State Distributive School Account, giving first priority to the shortfall in the State Distributive School Account. The State Controller shall thereupon make the transfer.

Sec. 6. 1. If there is a shortfall in the State Distributive School Account and the Legislature is not in session, the Superintendent of Public Instruction may submit a request to the State Board of Examiners for an allocation from the K-12 Public Education Stabilization Account by the Interim Finance Committee.

2. The State Board of Examiners shall consider the request and may require additional information from the Superintendent of Public Instruction as the Board deems appropriate. If the State Board of Examiners finds that an allocation should be made, the Board shall recommend the amount of the allocation to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

3. If the Interim Finance Committee, after independent determination, finds that an allocation should and may lawfully be made from the K-12 Public Education Stabilization Account, the Committee shall by resolution establish the amount and purpose of the allocation, giving first priority to the shortfall in the State Distributive School Account, and direct the State Controller to transfer that amount to the State Distributive School Account.

Sec. 7. NRS 353.225 is hereby amended to read as follows:

353.225 1. ~~It is~~ Subject to the requirements of subsections 2 and 3, in order to provide some degree of flexibility to meet emergencies arising during each fiscal year in the expenditures for the State Distributive School Account in the State General Fund and for operation and maintenance of the various departments, institutions and agencies of the Executive Department of the State Government, the Chief, with the approval in writing of the Governor, may require the State Controller or the head of each such department, institution or agency to set aside a reserve in such amount as the Chief may determine, out of the total amount appropriated or out of other funds available from any source whatever to the department, institution or agency.

2. If the Chief determines that a reserve pursuant to subsection 1 is required in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational

programs for the school districts, charter schools and university schools for profoundly gifted pupils, the amount of any proposed reserves in each of those accounts and the Grant Fund, when combined and calculated as a percentage of the general fund appropriations in those accounts and the Grant Fund, must not exceed the average percentage of reserves for all other accounts and funds that include general fund appropriations for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year.

3. Before setting aside any reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils, the Chief must make a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account created by section 3 of this act in lieu of setting aside the reserve. If the Legislature or the Interim Finance Committee finds that an allocation should be made from the K-12 Public Education Stabilization Account in lieu of a reserve, the Legislature or the Interim Finance Committee shall by resolution establish the amount and the purpose of the allocation and direct the State Controller to transfer that amount to the State General Fund. If the Legislature or the Interim Finance Committee adopts such a resolution, only the difference between the proposed amount of reserves determined pursuant to subsection 2 and the allocation made by resolution pursuant to this subsection may be set aside as reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils.

4. At any time during the fiscal year this reserve or any portion of it may be returned to the appropriation or other fund to which it belongs and may be added to any one or more of the allotments, if the Chief so orders in writing.

Sec. 8. NRS 266.267 is hereby amended to read as follows:

266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for the sale of real property until after the property has been appraised pursuant to NRS 268.059. Except as otherwise provided in this section, paragraph (a) of subsection 1 of NRS 268.050 and subsection 3 of NRS 496.080:

(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and

(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.

2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible **for an abatement from local sales and use taxes** pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ **section 26 of this act.**

Sec. 9. Chapter 274 of NRS is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this act.

Sec. 10. **"Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.**

Sec. 11. (Deleted by amendment.)

Sec. 12. **1. Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business may file for a credit or refund to recover the amount of the local sales and use taxes paid for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the governing body of the municipality made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.**

2. Claims for credit or refund may be filed under this section only if:

(a) The designating municipality has adopted an ordinance authorizing such claims; and

(b) This benefit is specified in the agreement made under NRS 274.270.

Sec. 13. NRS 274.010 is hereby amended to read as follows:

274.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 274.020 to 274.080, inclusive, **and section 10 of this act** have the meanings ascribed to them in those sections.

Sec. 14. NRS 274.230 is hereby amended to read as follows:

274.230 When a specially benefited zone is designated and approved under this chapter, the governing body of the designating municipality may:

1. Apply with the United States Department of Commerce to have the specially benefited zone declared to be a free trade zone.

2. When any federal legislation concerning specially benefited zones is enacted or becomes effective, prepare and submit, with the assistance of the Administrator and in a timely fashion, all information and forms necessary to permit the specially benefited zone designated and approved under this chapter to be considered as an eligible area under the federal program.

3. Apply for all available assistance from the federal, state, and in the case of a city, the county government, including the suspension or modification of their regulations within the specially benefited zone that have the characteristics described in subsection 1 of NRS 274.110.

4. Develop and carry out a program to improve police protection within the zone.

5. Give priority to the use in the zone of any federal assistance for urban development or job training.

6. By ordinance adopt regulations for qualifying employers for the benefits authorized specifically for qualified businesses under this chapter . ~~and NRS 374.643.~~

Sec. 15. NRS 274.270 is hereby amended to read as follows:

274.270 1. The governing body shall investigate the proposal made by a business pursuant to NRS 274.260, and if it finds that the business is qualified by financial responsibility and business experience to create and preserve employment opportunities in the specially benefited zone and improve the economic climate of the municipality and finds further that the business did not relocate from a depressed area in this State or reduce employment elsewhere in Nevada in order to expand in the specially benefited zone, the governing body may, on behalf of the municipality, enter into an agreement with the business, for a period of not more than 20 years, under which the business agrees in return for one or more of the benefits authorized in this chapter ~~and NRS 374.643~~ for qualified businesses, as specified in the agreement, to establish, expand, renovate or occupy a place of business within the specially benefited zone and hire new employees at least 35 percent of whom at the time they are employed are at least one of the following:

(a) Unemployed persons who have resided at least 6 months in the municipality.

(b) Persons eligible for employment or job training under any federal program for employment and training who have resided at least 6 months in the municipality.

(c) Recipients of benefits under any state or county program of public assistance, including, without limitation, temporary assistance for needy families, Medicaid and unemployment compensation who have resided at least 6 months in the municipality.

(d) Persons with a physical or mental handicap who have resided at least 6 months in the State.

(e) Residents for at least 1 year of the area comprising the specially benefited zone.

2. To determine whether a business is in compliance with an agreement, the governing body:

(a) Shall each year require the business to file proof satisfactory to the governing body of its compliance with the agreement.

(b) May conduct any necessary investigation into the affairs of the business and may inspect at any reasonable hour its place of business within the specially benefited zone.

➤ If the governing body determines that the business is in compliance with the agreement, it shall issue a certificate to that effect to the business. The certificate expires 1 year after the date of its issuance.

3. The governing body shall file with the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation a copy of each agreement, the information submitted under paragraph (a) of subsection 2 and the current certificate issued to the business under that subsection. The governing body shall immediately notify the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation whenever the business is no longer certified.

Sec. 16. NRS 274.310 is hereby amended to read as follows:

274.310 1. A person who intends to locate a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive ~~††~~, **and section 19 of this act;**

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,
 ➤ may submit a request to the governing body of the county, city or town in which the business would operate for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the **local sales and use taxes or** taxes imposed pursuant to chapter 361 ~~for 374~~ of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[4.]~~ 5:

(1) Commence operation and continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, **and section 19 of this act**, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business will operate.

(d) The applicant invested or commits to invest a minimum of \$500,000 in capital.

4. ***If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:***

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from ~~{the property tax}~~ **property taxes** imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

~~{5.}~~ 6. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~{6.}~~ 7. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 17. NRS 274.320 is hereby amended to read as follows:

274.320 1. A person who intends to expand a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive ~~and~~, **and section 19 of this act**;

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597, ~~may~~ **may** submit a request to the governing body of the county, city or town in which the business operates for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of the **local sales and use** taxes imposed on capital equipment. ~~[pursuant to chapter 374 of NRS.]~~ The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, **and section 19 of this act**, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The applicant invested or commits to invest a minimum of \$250,000 in capital equipment.

4. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation; and
- (b) The Nevada Tax Commission.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

6. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 18. NRS 274.330 is hereby amended to read as follows:

274.330 1. A person who owns a business which is located within an enterprise community established pursuant to 24 C.F.R. Part 597 in this State may submit a request to the governing body of the county, city or town in which the business is located for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the *local sales and use taxes or* taxes imposed pursuant to chapter 361 ~~for 374~~ of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[4-]~~ 5:

(1) Continue in operation in the enterprise community for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↳ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The business:

(1) Employs one or more dislocated workers who reside in the enterprise community; and

(2) Pays such employee or employees a wage of not less than 100 percent of the federally designated level signifying poverty for a family of four persons and provides medical benefits to the employee or employees and his or their dependents.

4. *If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:*

(a) *Be for a duration of not more than 10 years; and*

(b) *Not exceed 50 percent of the property taxes payable by a business each year.*

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and , *except as otherwise provided in subsection 4*, grant a partial abatement equal to that percentage; and

(b) Immediately forward a certificate of eligibility for the abatement to:

(1) The Department of Taxation;

(2) The Nevada Tax Commission; and

(3) If the partial abatement is from ~~the property tax~~ *property taxes* imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business is located.

~~{5-}~~ 6. The Commission on Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees to qualify for an abatement pursuant to this section.

(b) May adopt such other regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~6.]~~ 7. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~7.]~~ 8. As used in this section, “dislocated worker” means a person who:

(a) Has been terminated, laid off or received notice of termination or layoff from employment;

(b) Is eligible for or receiving or has exhausted his entitlement to unemployment compensation;

(c) Has been dependent on the income of another family member but is no longer supported by that income;

(d) Has been self-employed but is no longer receiving an income from self-employment because of general economic conditions in the community or natural disaster; or

(e) Is currently unemployed and unable to return to a previous industry or occupation.

Sec. 19. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, out of any revenue from taxes which is otherwise required to be paid into a special fund of a redevelopment agency in accordance with paragraph (b) of subsection 1 of NRS 279.676, the county treasurer shall set aside:

(a) Three percent of that revenue for the fiscal year beginning on July 1, 2009;

(b) Four percent of that revenue for the fiscal year beginning on July 1, 2010;

(c) Five percent of that revenue for the fiscal year beginning on July 1, 2011;

(d) Six percent of that revenue for the fiscal year beginning on July 1, 2012;

(e) Seven percent of that revenue for the fiscal year beginning on July 1, 2013;

(f) Eight percent of that revenue for the fiscal year beginning on July 1, 2014;

(g) Nine percent of that revenue for the fiscal year beginning on July 1, 2015;

(h) Ten percent of that revenue for the fiscal year beginning on July 1, 2016;

(i) Eleven percent of that revenue for the fiscal year beginning on July 1, 2017;

(j) Twelve percent of that revenue for the fiscal year beginning on July 1, 2018;

(k) Thirteen percent of that revenue for the fiscal year beginning on July 1, 2019;

(l) Fourteen percent of that revenue for the fiscal year beginning on July 1, 2020; and

(m) Fifteen percent of that revenue for each fiscal year beginning on or after July 1, 2021,

↪ and pay the amount set aside to the State Treasurer.

2. The provisions of subsection 1:

(a) Shall not apply to reduce the amounts payable under any existing obligation of the agency or otherwise be applied in such a manner as to impair adversely any existing obligation of the agency, as determined by ~~independent bond counsel,~~ the agency as provided in subsection 4, until the existing obligation has been discharged in full; and

(b) Do not apply to any revenue required to be paid into a special fund of the agency which is attributable to the taxes imposed on the property included in a particular redevelopment project within the redevelopment area if:

(1) The legislative body determines that any of the property included in that redevelopment project is characterized by the factor specified in paragraph (j) of subsection 1 of NRS 279.388;

(2) Before July 1, 2009, the agency entered into a memorandum of understanding or other agreement with a private entity regarding that redevelopment project; and

(3) The agency certifies that a private entity has entered into or will be obligated to enter into a memorandum of understanding or other agreement with the board of trustees of the school district in which that redevelopment project is located which obligates the private entity to donate to that school district sites for the construction of schools, in such a number, size and location as that board of trustees determines to be appropriate for that redevelopment project.

3. The State Treasurer shall deposit any money received pursuant to subsection 1:

(a) Except as otherwise provided in paragraph (b), into the K-12 Public Education Stabilization Account created by section 3 of this act; and

(b) To the extent that the amount received would cause the K-12 Public Education Stabilization Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3 of section 3 of this act, into the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.

4. The agency shall, not later than July 15 of each year, certify to the county treasurer, the Committee on Local Government Finance and the Department of Taxation the amount of revenue from taxes that is not subject to the provisions of subsection 1 because of the provisions of subsection 2 or 6. The county treasurer shall use the certification of the agency in determining the amount to be set aside pursuant to subsection 1. The Committee on Local Government Finance, in cooperation with the Department of Taxation, may review the certification of the agency and, if the Committee on Local Government Finance determines that the

certification is incorrect or otherwise erroneous, it may direct a different amount to be set aside pursuant to subsection 1.

5. The Committee on Local Government Finance may adopt regulations for the administration and interpretation of this section.

6. For the purposes of this section, “existing obligation” ~~means~~ includes, without limitation:

(a) Any bond, note, medium-term financing, certificate, debenture or other financial obligation issued by the agency before July 1, 2009, ~~and~~, and any obligation issued thereafter to refund any bond, note, medium-term financing, certificate, debenture or other financial obligation issued by the agency before July 1, 2009, if:

(1) The total payments to be made on the refunding obligation are less than the total payments to be made on the obligation being refunded; and

(2) The final maturity date of the refunding obligation is not later than the final maturity date of the obligation being refunded;

(b) Any loan, letter of credit or other advance of money to the agency before July 1, 2009, including, without limitation, a loan from any federal, state or local governmental entity and any loan from or other financial obligation owed to any bank or other private entity;

(c) Any minimum payment required on any note issued or other indebtedness or obligation incurred by the agency pursuant to any agreement for tax increment financing made pursuant to the redevelopment plan before July 1, 2009, including, without limitation, any owner participation agreement;

(d) Any money required to be set aside by the agency pursuant to NRS 279.685 for each fiscal year, but not less than the amount set aside by the agency pursuant to that section for the fiscal year ending on June 30, 2009;

(e) Any money required to administer and operate the agency for each fiscal year, except that for each fiscal year beginning after the first full fiscal year of the administration and operation of the agency, this amount must not exceed 102 percent of the amount expended for the administration and operation of the agency for the immediately preceding fiscal year;

(f) Any contractual obligation incurred by the agency before July 1, 2009, which, if breached by the agency, may subject the agency to damages or other liability, including, without limitation, any obligation, covenant or representation of the agency to issue any bonds, notes or other additional indebtedness in the future, any covenant to maintain reserve funds, any covenant to maintain minimum annual debt service ratios, any obligation to purchase property and any obligation to construct improvements, whether or not such obligation is an obligation or debt of the agency under NRS 279.638 and whether or not such obligation is limited to particular revenues of the agency; and

(g) The provisions of any memorandum of understanding between the agency and any private entity relating to the redevelopment of any site as part of a redevelopment project, if:

(1) Before July 1, 2009, in anticipation of the redevelopment of the site as part of a redevelopment project, the private entity reduced the fair market value of the site by clearing, demolishing or excavating any property at the site; and

(2) Before July 1, 2011, the agency and private entity execute a formal contract for the redevelopment of the site as part of a redevelopment project.

Sec. 20. NRS 279.636 is hereby amended to read as follows:

279.636 1. An agency may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with those proceeds together with financial assistance from the State or Federal Government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of NRS 279.674 to 279.685, inclusive ~~[-],~~ **and section 19 of this act.**

(d) From its revenues generally.

(e) From any contributions or other financial assistance from the State or Federal Government.

(f) By any combination of these methods.

2. Any of the bonds may be additionally secured by a pledge of any revenue or by an encumbrance by mortgage, deed of trust or otherwise of any redevelopment project or other property of the agency or by a pledge of the taxes referred to in subsection 1.

3. Amounts payable in any manner permitted by this section may be additionally secured by a pledge of the full faith and credit of the community whose legislative body has declared the need for the agency to function. Such additional security may only be provided upon the approval of the majority of the voters voting on the question at a primary or general election or a special election called for that purpose. In its proposal to its voters the governing body shall define the area to be redeveloped, the primary source or sources of revenue first to be employed to retire the bonds and the maximum sum for which the city may pledge its full faith and credit in connection with the bonds to be issued for the project.

Sec. 21. NRS 279.674 is hereby amended to read as follows:

279.674 As used in NRS 279.674 to 279.685, inclusive, **and section 19 of this act**, the word "taxes" ~~shall include, but~~ **includes**, without limitation, all levies on an ad valorem basis upon land or real property.

Sec. 22. NRS 279.676 is hereby amended to read as follows:

279.676 1. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in the redevelopment area each year by or for the benefit of the State, any city, county, district or other public corporation, after the effective date of the ordinance approving the redevelopment plan, must be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment area as shown upon the assessment roll used in connection with the taxation of the property by the taxing agency, last equalized before the effective date of the ordinance, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for such taxing agencies on all other property are paid. To allocate taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment area on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance must be used in determining the assessed valuation of the taxable property in the redevelopment area on the effective date. If property which was shown on the assessment roll used to determine the amount of taxes allocated to the taxing agencies is transferred to the State and becomes exempt from taxation, the assessed valuation of the exempt property as shown on the assessment roll last equalized before the date on which the property was transferred to the State must be subtracted from the assessed valuation used to determine the amount of revenue allocated to the taxing agencies.

(b) Except as otherwise provided in ~~paragraphs (c) and (d)~~ **this section, section 19 of this act** and NRS 540A.265, that portion of the levied taxes each year in excess of the amount set forth in paragraph (a) must be allocated to and when collected must be paid into a special fund of the redevelopment agency to pay the costs of redevelopment and to pay the principal of and interest on loans, money advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, redevelopment. Unless the total assessed valuation of the taxable property in a redevelopment area exceeds the total assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan, less the assessed valuation of any exempt property subtracted pursuant to paragraph (a), all of the taxes levied and collected upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies. When the redevelopment plan is terminated pursuant to the provisions of NRS 279.438 and 279.439 and all loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the

taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a tax rate levied by a taxing agency to produce revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the debt service fund of that taxing agency.

(d) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a new or increased tax rate levied by a taxing agency and was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.

2. Except as otherwise provided in subsection 3, in any fiscal year, the total revenue paid to a redevelopment agency must not exceed:

(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a municipality whose population is 25,000 or more but less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

(c) In a municipality whose population is less than 25,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 20 percent of the total assessed valuation of the municipality.

↪ If the revenue paid to a redevelopment agency must be limited pursuant to paragraph (a), (b) or (c) and the redevelopment agency has more than one redevelopment area, the redevelopment agency shall determine the allocation to each area. Any revenue which would be allocated to a redevelopment agency but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. The taxing agencies shall continue to pay to a redevelopment agency any amount which was being paid before July 1, 1987, and in anticipation of which the agency became obligated before July 1, 1987, to repay any bond, loan, money advanced or any other indebtedness, whether funded, refunded, assumed or otherwise incurred.

4. For the purposes of this section, the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan is the assessment roll in existence on March 15 immediately preceding the effective date of the ordinance.

Sec. 23. NRS 279.680 is hereby amended to read as follows:

279.680 Except as otherwise provided in NRS 279.685, in any redevelopment plan, or in the proceedings for the advance of money, or the making of loans, or the incurring of any indebtedness, whether funded,

refunded, assumed or otherwise, by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in paragraph (b) of subsection 1 of NRS 279.676 **which is paid into a special fund of the redevelopment agency** may be irrevocably pledged for the payment of the principal of and interest on those loans, advances or indebtedness.

Sec. 24. NRS 279.685 is hereby amended to read as follows:

279.685 1. Except as otherwise provided in this section, an agency of a city whose population **for a fiscal year** is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than 15 percent of that revenue received on or ~~before October 1, 1999, and 18 percent of that revenue received after October 1, 1999,~~ **after July 1, 2009**, to increase, improve and preserve the number of dwelling units in the community for low-income households.

~~{2.} The obligation of an agency pursuant to this subsection to set aside not less than 15 percent of the any revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.~~

~~3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.~~

~~{4.} 2. Subsection 1 does not apply to an agency of a city whose population for a fiscal year is 300,000 or more if the first fiscal year for which that population is 300,000 or more begins on or after July 1, 2009. Except as otherwise provided in this subsection, an agency of a city whose population for a fiscal year is 300,000 or more to which subsection 1 does not apply shall, if the agency receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676, set aside not less than:~~

~~(a) Three percent of that revenue for the first fiscal year for which the population of that city is 300,000 or more;~~

(b) Four percent of that revenue for the second fiscal year for which the population of that city is 300,000 or more;

(c) Five percent of that revenue for the third fiscal year for which the population of that city is 300,000 or more;

(d) Six percent of that revenue for the fourth fiscal year for which the population of that city is 300,000 or more;

(e) Seven percent of that revenue for the fifth fiscal year for which the population of that city is 300,000 or more;

(f) Eight percent of that revenue for the sixth fiscal year for which the population of that city is 300,000 or more;

(g) Nine percent of that revenue for the seventh fiscal year for which the population of that city is 300,000 or more;

(h) Ten percent of that revenue for the eighth fiscal year for which the population of that city is 300,000 or more;

(i) Eleven percent of that revenue for the ninth fiscal year for which the population of that city is 300,000 or more;

(j) Twelve percent of that revenue for the 10th fiscal year for which the population of that city is 300,000 or more;

(k) Thirteen percent of that revenue for the 11th fiscal year for which the population of that city is 300,000 or more;

(l) Fourteen percent of that revenue for the 12th fiscal year for which the population of that city is 300,000 or more; and

(m) Fifteen percent of that revenue for the 13th and each subsequent fiscal year for which the population of that city is 300,000 or more,

↪ to increase, improve and preserve the number of dwelling units in the community for low-income households. The obligation of an agency pursuant to this subsection to set aside any revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 2009, to finance or refinance, in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after July 1, 2009, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The agency may expend or otherwise commit money for the purposes of subsection 1 or 2, as applicable, outside the boundaries of the redevelopment area.

4. For the purposes of this section, the population of a city for a fiscal year is the population of that city as certified for that fiscal year by the Governor pursuant to NRS 360.285. The Department of Taxation shall, as soon as practicable after the Governor first certifies the population of a city

pursuant to NRS 360.285 as being 300,000 or more, notify any agency of that city of that certification.

Sec. 25. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 and 27 of this act.

Sec. 26. *1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the local sales and use taxes imposed on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.*

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from local sales and use taxes for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires:

(a) "Eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(1) Buildings or the structural components of buildings;

(2) Equipment used by a public utility;

(3) Equipment used for medical treatment;

(4) Machinery or equipment used in mining; or

(5) Machinery or equipment used in gaming.

(b) "Local sales and use taxes" has the meaning ascribed to it in NRS 360.750.

Sec. 27. *1. The Commission on Economic Development shall adopt regulations:*

(a) Specifying criteria for determining, subject to such limitations as may be prescribed by specific statute, the duration and amount of any abatement of taxes which the Commission is authorized or required to approve. The criteria must provide for progressively greater abatements based upon the extent to which the business exceeds any minimum eligibility requirements for the abatement and meets such additional eligibility requirements as the Commission deems appropriate.

(b) Establishing a schedule of progressively greater sanctions for the failure of a business to comply with any eligibility requirements for any abatement of taxes approved by the Commission. The sanctions:

(1) Must be commensurate with the severity of the failure to comply with such eligibility requirements; and

(2) May include:

(I) A reduction in the duration or amount of the abatement;

(II) The termination of the abatement; and

(III) The repayment of all or any portion of the abatement to the Department or county treasurer, as appropriate.

(c) Requiring each business that accepts any abatement of taxes approved by the Commission to submit annually such information and documentation as may be necessary for the Commission to determine whether the business is in compliance with any eligibility requirements for the abatement.

2. If the Commission on Economic Development determines that any business which accepts any abatement of taxes approved by the Commission may not be in compliance with any eligibility requirements for the abatement, the Commission shall notify the Department of that determination and the Department may, after providing the business with notice of and an opportunity for a hearing on the matter, impose such sanctions as may be appropriate in accordance with the regulations adopted pursuant to subsection 1. If the abatement is from property taxes imposed pursuant to chapter 361 of NRS, the Department shall provide notice of the imposition of any such sanctions to the county treasurer.

3. If a business is required to repay all or any portion of any abatement to a county treasurer as a result of the imposition of any sanctions pursuant to this section, the county treasurer:

(a) Shall deposit the money in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

Sec. 28. NRS 360.225 is hereby amended to read as follows:

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

(b) An exemption from taxes pursuant to NRS 363B.120;

(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; or

(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to ~~NRS 374.357,~~ **section 26 of this act,**

↪ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.

Sec. 29. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial

abatement of one or more of the *local sales and use taxes imposed on the new or expanded business or* taxes imposed on the new or expanded business pursuant to chapter 361 ~~[, 363B or 374]~~ **or 363B** of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least ~~[5]~~ **6**, years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9]~~ **10**.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city

whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~9.~~ **10.**

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~9.~~ **10.**

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a

patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. *If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:*

(a) *Be for a duration of not more than 10 years; and*

(b) *Not exceed 50 percent of the property taxes payable by a business each year.*

6. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department;
- (b) The Nevada Tax Commission; and
- (c) If the partial abatement is from ~~the property tax~~ **property taxes** imposed pursuant to chapter 361 of NRS, the county treasurer.

~~6.] 7.~~ An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~7.] 8.]~~

8. *Except as otherwise provided in the regulations adopted by the Commission on Economic Development pursuant to section 27 of this act, if* a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

- (a) To meet the requirements set forth in subsection 2; or
 - (b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,
- ↪ the business shall repay to the Department or, if the partial abatement was from ~~the property tax~~ **property taxes** imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~8.] 9.~~ A county treasurer:

- (a) Shall deposit any money that he receives pursuant to subsection ~~7]~~ 8 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and
- (b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~9.] 10.~~ The Commission on Economic Development:

- (a) Shall adopt regulations relating to:
 - (1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and
 - (2) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~10.]~~ **11.** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~11.]~~ **12.** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

13. *As used in this section, “local sales and use taxes” means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.*

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. Section 2.320 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 48, Statutes of Nevada 1997, at page 89, is hereby amended to read as follows:

Sec. 2.320 Sale, lease, exchange of real property owned by the City: Procedure; disposition of proceeds.

1. Subject to the provisions of this section, the City may sell, lease or exchange real property in Clark County, Nevada, acquired by the City pursuant to federal law from the United States of America.

2. Except as otherwise provided in subsection 3:

(a) The City may sell, lease or exchange real property only by resolution. Following the adoption of a resolution to sell, lease or exchange, the City Council shall cause a notice of its intention to sell, lease or exchange the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City. The notice must be published at least 30 days before the date set by the City Council for the sale, lease or exchange, and must state:

(1) The date, time and place of the proposed sale, lease or exchange.

(2) The place where and the time within which applications and deposits may be made by prospective purchasers or lessees.

(3) Such other information as the City Council desires.

(b) Applications or offers to purchase, lease or exchange pursuant to the notice required in paragraph (a) must be in writing, must not be accepted by the City Council for consideration before the date of publication of the notice

and must be accompanied by a deposit of not less than 1 percent of the total offer to purchase. If a lease, sale or exchange is not consummated because:

(1) The City refuses or is unable to consummate the lease, sale or exchange, the deposit must be refunded.

(2) The person who made the application or offer to lease, buy or exchange refuses or is unable to consummate the lease, sale or exchange, the City shall retain an amount of the deposit that does not exceed 5 percent of the total offer to purchase.

3. The City Council may waive the requirements of subsection 2 for any lease of residential property that is for a term of 1 year or less.

4. The City Council shall not make a lease for a term of 3 years or longer or enter into a contract for the sale or exchange of real property until after the property has been appraised by one disinterested appraiser employed by the City Council. Except as otherwise provided in subsections 7 and 8, it must be the policy of the City Council to require that all such sales, leases or exchanges be made at or above the current appraised value as determined by the appraiser unless the City Council, in a public hearing held before the adoption of the resolution to sell, lease or exchange the property, determines by affirmative vote of not fewer than two-thirds of the entire City Council based upon specified findings of fact that a lesser value would be in the best interest of the public. For the purposes of this subsection, an appraisal is not considered current if it is more than 3 years old.

5. It must be the policy of the City Council to sell, lease and exchange real property in a manner that will result in the maximum benefit accruing to the City from the sales, leases and exchanges. The City Council may attach any condition to the sale, lease or exchange as appears to the City Council to be in the best interests of the City.

6. The City Council may sell unimproved real property owned by the City on a time payment basis. The down payment must be in an amount determined by the City Council, and the interest rate must be in an amount determined by the City Council, but must not be less than 6 percent per annum on the declining balance.

7. Notwithstanding the provisions of subsection 4, the City Council may dispose of any real property belonging to the City to the United States of America, the State of Nevada, Clark County, any other political subdivision of the State, or any quasi-public or nonprofit entity for a nominal consideration whenever the public interest requires such a disposition. In any such case, the consideration paid must equal the cost of the acquisition to the City.

8. The City Council may sell, lease or exchange real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the City which is eligible **for an abatement from local sales and use taxes** pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ **section 26 of this act.**

9. Proceeds from all sales and exchanges of real property owned by the City, after deduction of the cost of the real property, reasonable costs of publication, title insurance, escrow and normal costs of sale, must be placed in the Land Fund previously created by the City in the City Treasury and hereby continued. Except as otherwise provided in subsection 10, money in the Land Fund may be expended only for:

(a) Acquisition of assets of a long-term character which are intended to continue to be held or used, such as land, buildings, machinery, furniture, computer software and other equipment.

(b) Capital improvements of improvements thereon.

(c) Expenses incurred in the preparation of a long-term comprehensive master planning study and any expenses incurred in the master planning of the City.

(d) All costs, including salaries, for administration of the Land Fund, and the land within the City.

(e) Expenses incurred in making major improvements and repairs to the water, sewer and street systems as differentiated from normal maintenance costs.

➔ Money received from leases of real property owned by the City must be placed in the Land Fund if the term of lease is 20 years or longer, whether the 20 years is for an initial term of lease or for an initial term and an option for renewal. Money received by the City from all other leases and interest on time payment sales of real property owned by the City must be apportioned in the ratio of 20 percent to current operational expenses of the City, 20 percent to the Land Fund, and 60 percent divided between the Land Fund and current operational expenses as determined by the Council.

10. If available, money in the Land Fund may be borrowed by the City pursuant to the provisions of NRS 354.430 to 354.460, inclusive.

Sec. 33. NRS 374.357 and 374.643 are hereby repealed.

Sec. 34. The provisions of sections 8, 9, 10, 13, 16, 17, 18 and 25 to 33, inclusive, of this act do not apply to or affect the terms of any abatement of taxes approved by the Commission on Economic Development before July 1, 2009.

Sec. 35. The provisions of sections 9 to 15, inclusive, and 33 of this act do not apply to or affect the terms of any agreement made pursuant to NRS 274.270 before July 1, 2009.

Sec. 36. 1. Any redevelopment plan adopted pursuant to chapter 279 of NRS before July 1, 2009, which contains a provision for the division of taxes pursuant to NRS 279.676 shall be deemed to include the provisions of section 22 of this act.

2. Notwithstanding any provision of section 19 of this act to the contrary, the State Treasurer shall deposit any money received pursuant to paragraphs (a) and (b) of subsection 1 of that section into the State Distributive School Account in the State General Fund.

3. The provisions of section 24 of this act do not apply to any revenue from taxes received by a redevelopment agency before July 1, 2009.

Sec. 37. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

374.357 Abatement for eligible machinery or equipment used by certain new or expanded businesses. [Effective July 1, 2009.]

1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires, "eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- (a) Buildings or the structural components of buildings;
- (b) Equipment used by a public utility;
- (c) Equipment used for medical treatment;
- (d) Machinery or equipment used in mining; or
- (e) Machinery or equipment used in gaming.

374.643 Credit or refund of tax for business within zone for economic development.

1. Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business within a specially benefited zone may file for a credit or refund to recover the amount of tax paid under this chapter for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the city or county, as the case may be, made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.

2. Claims for credit or refund may be filed under this section only if:

(a) The city or county which designated the specially benefited zone has adopted an ordinance authorizing such claims; and

(b) This benefit is specified in the agreement made under NRS 274.270.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 458.

Remarks by Assemblywoman Leslie.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

Assembly Bill No. 13.

The following Senate amendment was read:

Amendment No. 803.

AN ACT relating to education; authorizing the board of trustees of a school district to request a waiver from the required minimum expenditure for textbooks, instructional supplies and instructional hardware during an economic hardship; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Education to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) **Section 1** of this bill authorizes a school district to request a waiver from all or a portion of the minimum expenditure requirements when a school district experiences an economic hardship. A request for a waiver must be reviewed by the Department of Education and the State Board of Examiners. The Interim Finance Committee makes the final determination regarding whether to grant a waiver. A school district that is granted a waiver is prohibited from using the money for collective bargaining with its licensed employees or for an adjustment of salaries and benefits of district employees.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district that experiences an economic hardship may submit a written request to the Department on a form prescribed by the Department for a waiver of all or a portion of the amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware pursuant to NRS 387.206 for the fiscal year.

2. Upon receipt of a written request pursuant to subsection 1, the Department shall consider the request and determine whether an economic hardship exists for the school district. The Department may request additional information from the school district in making the determination. If the Department determines that an economic hardship exists for the school district, the Department shall forward the request to the Interim Finance Committee and the State Board of Examiners, including the basis for its determination and any recommendations of the Department for the amount of a waiver.

3. *Upon receipt of a written request from the Department pursuant to subsection 2, the State Board of Examiners shall consider the request and determine whether an economic hardship exists for the school district. If the State Board of Examiners determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The State Board of Examiners may request additional information from the school district in making the determination. If the State Board of Examiners determines that an economic hardship exists for the school district and that a waiver from all or a portion of the expenditure requirements is justified, the State Board of Examiners shall forward the request to the Interim Finance Committee, including the basis for its determination and its recommendation for the amount of the waiver. The Interim Finance Committee is not bound to follow the recommendations of the State Board of Examiners.*

4. *Upon receipt of a written request from the State Board of Examiners pursuant to subsection 3, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district. If the Interim Finance Committee determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The Interim Finance Committee may request additional information from the school district in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth the:*

- (a) Grounds for its determination;*
- (b) Amount of the waiver; and*
- (c) Period for which the waiver is effective.*

5. *The board of trustees of a school district that is granted a waiver by the Interim Finance Committee pursuant to this section shall, upon expiration of the period for which the waiver is granted, provide a written accounting to the Interim Finance Committee and the Department that includes a:*

- (a) Reconciliation of the revenue and expenditures with the projections of revenue and expenditures that were used to determine whether an economic hardship existed for the school district; and*
- (b) Description of how the money from the waiver was used.*

6. *If the Interim Finance Committee grants a waiver pursuant to this section and subsequently the economic hardship to the school district is mitigated because the actual revenue attributable to the school district exceeds projections or the actual expenses incurred by the school district are less than anticipated:*

- (a) The amount of the waiver must be reduced accordingly by the school district; and*

(b) *The amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware in the next fiscal year, as determined pursuant to subsection 1 of NRS 387.206, must be adjusted accordingly.*

7. ~~7A. If a school district ~~that~~ is granted a waiver pursuant to this section, ~~it shall not use~~ the money that would have otherwise been expended by the school district to meet the requirements of NRS 387.206 for the fiscal year; ~~it shall~~~~

(a) ~~Settle~~ May not be considered as financial ability to pay for the purposes of negotiation or arbitration regarding salaries and benefits.

(b) Must not be used to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district and the school district.

~~(b) Adjust~~

(c) Must not be used to adjust the schedules of salaries and benefits of the employees of the school district.

8. *For purposes of this section, an economic hardship exists for a school district if:*

(a) *Projections of revenue do not meet or exceed the revenue anticipated at the time the basic support guarantees are established for the fiscal year pursuant to NRS 387.122; or*

(b) *The school district incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.*

Sec. 2. NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts.

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for that fiscal year. *If a school district is granted a waiver pursuant to section 1 of this act, the Department shall provide written notice to the school district within 30 days after the Interim Finance Committee grants the waiver setting forth the revised amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for the fiscal year.*

3. On or before January 1 of each year, the Department shall determine whether each school district has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice *or*

the revised notice, as applicable, provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303.

4. Except as otherwise provided in subsection 5, if the Department determines that a school district has not expended the required minimum amount of money set forth in the notice *or the revised notice, as applicable*, provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice *or the revised notice, as applicable*, provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

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

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 13.

Remarks by Assemblywoman Leslie.

Conflict of interest declared by Assemblywoman Dondero Loop.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 243.

The following Senate amendment was read:

Amendment No. 628.

AN ACT relating to education; requiring certain employers to grant leave to a parent, guardian or custodian of a child enrolled in public school or private school to participate in certain school conferences, activities and events; prohibiting employers from taking certain retaliatory actions against an employee who takes the authorized leave; authorizing a parent, guardian or custodian who is retaliated against to ~~request a hearing before~~ **file a claim or complaint with** the Labor Commissioner; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires employers who employ 50 or more employees to grant to a parent, guardian or custodian of a child enrolled in a public school 4 hours of leave from his place of employment, which must be taken in increments of 1 hour, per school year per child to attend school-related activities or events or to volunteer at the school in which his child is enrolled. **Section 1** also requires the leave to be taken at a mutually agreed upon time and the employer is not required to pay the employee for the leave. **The provisions of section 1 do not apply if the employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement.**

Existing law makes it unlawful for any employer or his agent to terminate the employment of a person who is a parent, guardian or custodian of a child enrolled in public school because the person attended a conference requested by a school administrator or was notified of an emergency involving the child at school. (NRS 392.920) **Section 2** of this bill revises the prohibited acts by an employer or his agent to include demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child. **Section 2** also prohibits the termination, demotion, suspension or other discrimination of a parent, guardian or custodian of a child who takes leave authorized by **section 1** of this bill and authorizes a parent, guardian or custodian of a child who is terminated, demoted, suspended or otherwise discriminated against to ~~request a hearing before~~ file a claim or complaint with the Labor Commissioner. ~~If the dispute is not resolved, the parent, guardian or custodian may bring a civil action against his employer, as authorized in existing law.~~

Section 4 of this bill imposes the same requirements on employers for the parents, guardians and custodians of children enrolled in a private school. **The provisions of section 4 do not apply if an employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement.** **Section 5** of this bill prohibits an employer or his agent from terminating, demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child enrolled in a private school for attending a conference requested by a school administrator, being notified of an emergency involving the child at school or taking leave authorized by **section 4**. **Section 5** also authorizes ~~for a hearing before the Labor Commissioner. If the dispute is not resolved, the~~ a parent, guardian or custodian ~~may bring a civil action against his employer.~~ to file a claim or complaint with the Labor Commissioner.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~As~~ Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a public

school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

- (a) Attend parent-teacher conferences;*
 - (b) Attend school-related activities during regular school hours;*
 - (c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and*
 - (d) Attend school-sponsored events.*
- ↪ *The leave must be at a time mutually agreed upon by the employer and the employee.*

2. An employer may require:

- (a) An employee to provide a written request for the leave at least 5 school days before the leave is taken; and*
- (b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity for one of the purposes set forth in subsection 1.*

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in public school.

5. The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:

(a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and

(b) Substantially similar protections and remedies for violations by the employer as those that are set forth in NRS 392.920.

6. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 2. NRS 392.920 is hereby amended to read as follows:

392.920 1. It is unlawful for an employer or his agent to:

*(a) Terminate the employment of , **or to demote, suspend or otherwise discriminate against**, a person who, as the parent, guardian or custodian of a child:*

(1) Appears at a conference requested by an administrator of the school attended by the child; ~~or~~

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 1 of this act if the employer is subject to the requirements of that section; or

*(b) Assert to the person that his appearance or prospective appearance at such a conference , ~~or~~ the receipt of such a notification during his work **or leave taken pursuant to section 1 of this act** will result in the termination of*

his employment ~~[]~~ or a demotion, suspension or other discrimination in the terms and conditions of his employment.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person *who is* discharged from employment *or who is demoted, suspended or otherwise discriminated against* in violation of subsection 1 may ~~request a hearing before~~ file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such [a hearing. The] a claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and opportunity for a hearing [must be conducted in the manner prescribed in] pursuant to NRS 607.205 to 607.215, inclusive.

4. ~~If the Labor Commissioner [is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain.]~~ issues a written decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties provided in chapters 607 and 608 of NRS:

- (a) Wages and benefits lost as a result of the violation;
- (b) An order of reinstatement without loss of position, seniority or benefits; and
- (c) Damages equal to the amount of the lost wages and benefits. ~~[, and~~
- ~~(d) Reasonable attorney's fees fixed by the court.]~~

Sec. 3. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. ~~[An]~~ Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a private school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

- (a) Attend parent-teacher conferences;
- (b) Attend school-related activities during regular school hours;
- (c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and
- (d) Attend school-sponsored events.

↪ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least 5 school days before leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the private school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in private school.

5. The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:

(a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and

(b) Substantially similar protections and remedies for violations by the employer as those that are set forth in section 5 of this act.

6. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 5. 1. It is unlawful for an employer or his agent to:

(a) Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the private school attended by the child;

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 4 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference, the receipt of such a notification during his work or leave taken pursuant to section 4 of this act will result in the termination of his employment or a demotion, suspension or other discrimination in the terms and conditions of his employment.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may ~~request a hearing before~~ file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a ~~hearing. The~~ claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and an opportunity for a hearing ~~must be conducted in the manner prescribed in~~ pursuant to NRS 607.205 to 607.215, inclusive.

4. ~~If the Labor Commissioner is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain.~~ issues a written

decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties set forth in chapters 607 and 608 of NRS:

- (a) Wages and benefits lost as a result of the violation;*
- (b) An order of reinstatement without loss of position, seniority or benefits; and*
- (c) Damages equal to the amount of the lost wages and benefits ~~, *and*~~*
- ~~*(d) Reasonable attorney's fees fixed by the court.*~~

Sec. 6. NRS 394.201 is hereby amended to read as follows:

394.201 NRS 394.201 to 394.351, inclusive, **and sections 4 and 5 of this act** may be cited as the Private Elementary and Secondary Education Authorization Act.

Sec. 7. This act becomes effective on August 15, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 243.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 296.

The following Senate amendment was read:

Amendment No. 759.

AN ACT relating to motor carriers; revising the conditions for nonprofit carriers of elderly persons or persons with disabilities in certain larger counties (currently Clark County) to qualify for an exemption from the requirement to obtain a certificate of public convenience and necessity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the exemption from the requirement to obtain a certificate of public convenience and necessity for nonprofit carriers of elderly persons or persons with disabilities based upon the size of the county in which the carrier operates. (NRS 706.745)

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

Section 1. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

- (a) Ambulances;
- (b) Hearses; or
- (c) Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.

2. A common motor carrier that enters into an agreement for the purchase of its service by an incorporated city, county or regional

transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of:

- (a) Regular routes and fixed schedules;
- (b) Nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170, if the transportation is available upon request and without regard to regular routes or fixed schedules;
- (c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or
- (d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

3. Under any agreement for a system of public transit that provides for the transportation of passengers that is described in subsection 2:

- (a) The public entity shall provide for any required safety inspections; or
- (b) If the public entity is unable to do so, the Authority shall provide for any required safety inspections.

4. In addition to the requirements of subsection 3, under an agreement for a system of public transit that provides for the transportation of passengers that is described in:

- (a) Paragraph (a) of subsection 2, the public entity shall establish the routes and fares.
- (b) Paragraph (c) or (d) of subsection 2, the common motor carrier:
 - (1) May provide transportation to any passenger who can board a vehicle with minimal assistance from the operator of the vehicle.
 - (2) Shall not offer medical assistance as part of its transportation service.

5. ~~[A]~~ ***In a county whose population:***

(a) Is less than 400,000, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

(b) Is 400,000 or more, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but:

(I) Only if the nonprofit carrier:

(I) Does not charge for transportation services;

(II) Provides transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705; or

(III) Enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission; and

(2) Such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, such services.

Sec. 2. This act becomes effective on ~~July 1, 2009~~ **January 1, 2010**.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 296.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 101, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Segerblom, and McArthur as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 101.

Assemblyman Ocegüera moved that the Assembly recess until 6 p.m.

Motion carried.

Assembly in recess at 2:33 p.m.

ASSEMBLY IN SESSION

At 6:58 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Concurrent Resolution No. 30, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Senate Bills Nos. 370, 371, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Concurrent Resolution No. 35, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 31, 43, 354, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 30.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 683.

ASSEMBLYMEN Buckley AND ATKINSON

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers in this State.

Whereas, The creation of new jobs and promoting diversification of the Nevada economy is a critical need and an overriding goal of the Legislature; and

Whereas, Nevada is uniquely positioned by virtue of its location and favorable business climate to serve as a logistics and distribution center for the receipt, shipment and assembly of goods on the West Coast to points north and east; and

Whereas, The Nevada System of Higher Education, including the state universities in Reno and Las Vegas, has expertise in supply chain management and can provide consulting support, managerial development through degree programs and job training opportunities; and

Whereas, Foreign trade zones exist in both southern and northern Nevada for the purpose, among other things, of facilitating the growth of logistics and distribution centers; and

Whereas, The proposed Ivanpah Valley Airport in Clark County, the Tahoe-Reno Industrial Center in Storey County and the Reno-Tahoe International Airport are poised for future development as logistics and

distribution centers and for the creation of a wide range of jobs in supply chain management; and

Whereas, The Elko County Rail Port provides additional opportunities for east-west distribution of goods and development of a logistics cluster; ~~now;~~
and

WHEREAS, Mass transportation systems play an integral role in supporting the diversification and expansion of the workforce and economy; and

WHEREAS, Efficient mass transportation systems reduce environmental degradation and decrease congestion on major roadways,
now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate Concurring, That the Legislative Commission is hereby directed to appoint a subcommittee to study the development and promotion of Nevada as a logistics and distribution center; and be it further

Resolved, That the subcommittee shall formulate a strategy and develop an implementation plan detailing the steps that need to be taken to create and promote the further development of Nevada as a logistics and distribution center which must include, without limitation:

1. Identification of barriers to the development of logistics and distribution centers;

2. The costs and benefits associated with expanding mass transportation systems; ~~1~~

~~2~~ 3. Delineation of future foreign trade zones;

~~3~~ 4. Prioritization of infrastructure needs, including energy and water ~~and mass transportation systems;~~

~~4~~ 5. Formation of public-private partnerships for financing and incubation of new businesses;

~~5~~ 6. Funding options for the expansion of mass transit systems;

7. Attraction of businesses associated with supply chain management activities, including assembly, manufacturing, warehousing and transportation; and

~~6~~ 8. Identification of strategic public policy actions to expedite the investment of private development companies in major logistics centers in Nevada; and be it further

Resolved, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 76th Session of the Nevada Legislature.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Senate Concurrent Resolution No. 35.

Assemblyman Settlemeyer moved the adoption of the resolution.

Remarks by Assemblyman Settlemeyer.

Resolution adopted.

SECOND READING AND AMENDMENT

Senate Bill No. 31.

Bill read second time.

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

Amendment No. 725.

AN ACT relating to state governmental administration; revising provisions governing independent contractors with the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, elective officers and the heads of departments, boards, commissions and institutions of the Executive Department of State Government are authorized to contract for the services of independent contractors, including the provision of security services for state agencies. (NRS 284.173, 284.174) With limited exceptions, existing law requires contracts with independent contractors to be approved by the State Board of Examiners, but the Clerk of the Board may approve contracts that are for less than a certain specified amount. (NRS 284.173) This bill repeals NRS 284.173 and 284.174 but replaces those sections with **sections 2 and 3** of this bill which are added to chapter 333 of NRS, which relates to state purchasing. The new sections contain the same provisions as existing law except that the new sections ~~[(1)]~~ require that if the contract is for services for which a license, certificate or other authorization is required by law, the independent contractor hold the appropriate current authorization required by law for the services. ~~[(2) authorize the State Board of Examiners to determine the relevant amount rather than the relevant amount being specified in statute; and (3) require the State Board of Examiners to prescribe a minimum amount of money under which such a contract is not required to be written or filed with the Legislative Counsel Bureau and the Clerk of the State Board of Examiners rather than the amount of \$2,000 being specified in statute.]~~

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. **1. A using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.**

2. *An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subsection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.*

3. *For the purposes of this section:*

(a) *Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.*

(b) *There must be no:*

(1) *Withholding of income taxes by the State;*

(2) *Coverage for industrial insurance provided by the State;*

(3) *Participation in group insurance plans which may be available to employees of the State;*

(4) *Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;*

(5) *Accumulation of vacation leave or sick leave; or*

(6) *Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.*

4. *An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.*

5. *If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.*

6. *Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. ~~The requirements of this subsection do not apply to contracts which are for less than the amount prescribed by the State Board of Examiners.~~ The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than \$2,000.*

7. *Except as otherwise provided in subsection 8, and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or his designee to approve contracts which are:*

(a) *For amounts less than ~~the amount prescribed by the State Board of Examiners,~~ \$10,000 or, in contracts necessary to preserve life and property, for amounts less than \$25,000; or*

(b) *Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.*

8. *Copies of the following types of contracts need not be filed or approved as provided in subsections 6 and 7:*

(a) *Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.*

(b) *Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.*

(c) *Contracts executed by the Housing Division of the Department of Business and Industry.*

(d) *Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.*

9. *The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 7 to consider:*

(a) *Whether sufficient authority exists to expend the money required by the contract; and*

(b) *Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.*

↳ *If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.*

10. *If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he is representing.*

11. *The State Board of Examiners may adopt regulations to carry out of the provisions of this section.*

Sec. 3. 1. *If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may, pursuant to section 2 of this act, contract with one or more independent contractors to provide such services.*

2. *An independent contractor with whom a using agency contracts pursuant to subsection 1 must:*

(a) *Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and*

(b) *Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.*

Sec. 4. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 392A of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to ~~[NRS 284.173;]~~ **section 2 of this act**; and

(b) Contracts to provide medical services for the Department of Corrections.

↪ As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 5. NRS 176.0129 is hereby amended to read as follows:

176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of ~~[NRS 284.173;]~~ **section 2 of this act**, to:

1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

↪ during the 10 years immediately following the date of the projection; and

2. Review preliminary proposals and information provided by the Commission and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

↪ during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the Commission and enacted by the Legislature.

Sec. 6. NRS 232.548 is hereby amended to read as follows:

232.548 1. Except if a particular procedure for resolving a dispute is required by a specific statute, and except as otherwise provided in subsection 2, the Director may authorize any entity within the Department or any natural person who is subject to the authority of the Director to use alternative means of dispute resolution in any proceeding if the alternative means can be:

(a) Carried out by the available personnel of the Department or persons under contract with the Department; and

(b) Paid for with money that is available in the existing budget of the affected entity of the Department.

2. Before authorizing an entity of the Department to use alternative means of dispute resolution, the Director must notify the Attorney General. The Attorney General, within 30 days after his receipt of the notification from the Director, shall respond to the Director concerning the advisability of using alternative means of dispute resolution to resolve the dispute at issue. The Director shall consider the advice of the Attorney General but may authorize an entity of the Department to use alternative means of dispute resolution unless the Attorney General indicates in his response that he officially opposes the use of such means. If the Attorney General fails to respond within 30 days after his receipt of the notification, the Director may authorize the use of alternative means of dispute resolution.

3. The alternative means of dispute resolution may include, without limitation, evaluation of the facts and issues in a dispute by a neutral person, fact-finding, mediation, arbitration or other collaborative problem-solving processes designed to encourage persons to work together to develop agreeable solutions to disputes in lieu of litigation or adjudication of contested cases in administrative hearings.

4. Any entity which, or natural person who, has received authorization from the Director to use alternative means of dispute resolution may enter into a contract to facilitate the use of such means, subject to the approval of the Attorney General, the limitations set forth in subsection 1 and the provisions of ~~NRS 284.173.~~ **section 2 of this act.**

Sec. 7. NRS 590.505 is hereby amended to read as follows:

590.505 1. The Board may adopt a seal for its own use which must have imprinted thereon the words "Board for the Regulation of Liquefied Petroleum Gas." The care and custody of the seal is the responsibility of the Secretary-Treasurer of the Board.

2. The Board may appoint an Executive Secretary and may employ or, pursuant to ~~NRS 284.173.~~ **section 2 of this act**, contract with such other technical, clerical or investigative personnel as it deems necessary. The Board shall fix the compensation of the Executive Secretary and all other employees and independent contractors. Such compensation must be paid out

of the money of the Board. The Board may require the Executive Secretary and any other employees and independent contractors to give a bond to the Board for the faithful performance of their duties, the premiums on the bond being paid out of the money of the Board.

3. In carrying out the provisions of NRS 590.465 to 590.645, inclusive, and holding its regular or special meetings, the Board:

(a) Shall adopt written policies setting forth procedures and methods of operation for the Board.

(b) May adopt such regulations as it deems necessary.

4. The Board shall submit to the Legislature and the Governor a biennial report before September 1 of each even-numbered year, covering the biennium ending June 30 of that year, of its transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the Board during the period and any complaints received by the Board.

5. The Board shall keep accurate records, minutes and audio recordings or transcripts of all meetings and, except as otherwise provided in NRS 241.035, the records, minutes, audio recordings and transcripts so kept must be open to public inspection at all reasonable times. The Board shall also keep a record of all applications for licenses and licenses issued by it. The record of applications and licenses is a public record.

Sec. 8. NRS 284.173 and 284.174 are hereby repealed.

Sec. 9. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

284.173 Definition; contracts for services.

1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participations or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than \$2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than \$10,000 or, in contracts necessary to preserve life and property, for amounts less than \$25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

↪ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

↳ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

284.174 Contracts for security services when personnel of Capitol Police Division not available.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a state agency, the state agency may, pursuant to NRS 284.173, contract with one or more independent contractors to provide such services.

2. An independent contractor with whom a state agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Smith:

Amendment No. 900.

AN ACT relating to state governmental administration; revising provisions governing independent contractors with the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, elective officers and the heads of departments, boards, commissions and institutions of the Executive Department of State Government are authorized to contract for the services of independent contractors, including the provision of security services for state agencies. (NRS 284.173, 284.174) With limited exceptions, existing law requires contracts with independent contractors to be approved by the State Board of Examiners, but the Clerk of the Board may approve contracts that are for less than a certain specified amount. (NRS 284.173) This bill repeals NRS 284.173 and 284.174 but replaces those sections with **sections 2 and 3** of this bill which are added to chapter 333 of NRS, which relates to state purchasing. The new sections contain the same provisions as existing law except that the new sections: (1) require that if the contract is for services for which a license, certificate or other authorization is required by law, the independent contractor hold the appropriate current authorization required by

law for the services; (2) authorize the State Board of Examiners to determine the relevant amount rather than the relevant amount being specified in statute; and (3) require the State Board of Examiners to prescribe a minimum amount of money under which such a contract is not required to be written or filed with the Legislative Counsel Bureau and the Clerk of the State Board of Examiners rather than the amount of \$2,000 being specified in statute.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. ~~1.~~ Except as otherwise provided in section 1 of Assembly Bill No. 463 of this session, a using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.

2. *An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.*

3. *For the purposes of this section:*

(a) *Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.*

(b) *There must be no:*

(1) *Withholding of income taxes by the State;*

(2) *Coverage for industrial insurance provided by the State;*

(3) *Participation in group insurance plans which may be available to employees of the State;*

(4) *Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;*

(5) *Accumulation of vacation leave or sick leave; or*

(6) *Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.*

4. *An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.*

5. *If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.*

6. *Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of*

the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The requirements of this subsection do not apply to contracts which are for less than the amount prescribed by the State Board of Examiners.

7. Except as otherwise provided in subsection 8, and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or his designee to approve contracts which are:

(a) For amounts less than the amount prescribed by the State Board of Examiners; or

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

8. Copies of the following types of contracts need not be filed or approved as provided in subsections 6 and 7:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

9. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 7 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

↳ If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

10. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he is representing.

11. The State Board of Examiners may adopt regulations to carry out of the provisions of this section.

Sec. 3. *1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may, pursuant to section 2 of this act, contract with one or more independent contractors to provide such services.*

2. An independent contractor with whom a using agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Sec. 4. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 392A of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to ~~[NRS 284.173;]~~ **section 2 of this act;** and

(b) Contracts to provide medical services for the Department of Corrections.

↪ As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 5. NRS 176.0129 is hereby amended to read as follows:

176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of ~~[NRS 284.173;]~~ **section 2 of this act,** to:

1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:

- (a) In a facility or institution of the Department of Corrections;
- (b) On probation;
- (c) On parole; and
- (d) Serving a term of residential confinement,

↳ during the 10 years immediately following the date of the projection; and

2. Review preliminary proposals and information provided by the Commission and project annually the number of persons who will be:

- (a) In a facility or institution of the Department of Corrections;
- (b) On probation;
- (c) On parole; and
- (d) Serving a term of residential confinement,

↳ during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the Commission and enacted by the Legislature.

Sec. 6. NRS 232.548 is hereby amended to read as follows:

232.548 1. Except if a particular procedure for resolving a dispute is required by a specific statute, and except as otherwise provided in subsection 2, the Director may authorize any entity within the Department or any natural person who is subject to the authority of the Director to use alternative means of dispute resolution in any proceeding if the alternative means can be:

(a) Carried out by the available personnel of the Department or persons under contract with the Department; and

(b) Paid for with money that is available in the existing budget of the affected entity of the Department.

2. Before authorizing an entity of the Department to use alternative means of dispute resolution, the Director must notify the Attorney General. The Attorney General, within 30 days after his receipt of the notification from the Director, shall respond to the Director concerning the advisability of using alternative means of dispute resolution to resolve the dispute at issue. The Director shall consider the advice of the Attorney General but may authorize an entity of the Department to use alternative means of dispute resolution unless the Attorney General indicates in his response that he officially opposes the use of such means. If the Attorney General fails to respond within 30 days after his receipt of the notification, the Director may authorize the use of alternative means of dispute resolution.

3. The alternative means of dispute resolution may include, without limitation, evaluation of the facts and issues in a dispute by a neutral person, fact-finding, mediation, arbitration or other collaborative problem-solving processes designed to encourage persons to work together to develop agreeable solutions to disputes in lieu of litigation or adjudication of contested cases in administrative hearings.

4. Any entity which, or natural person who, has received authorization from the Director to use alternative means of dispute resolution may enter into a contract to facilitate the use of such means, subject to the approval of the Attorney General, the limitations set forth in subsection 1 and the provisions of ~~[NRS 284.173,]~~ **section 2 of this act.**

Sec. 7. NRS 590.505 is hereby amended to read as follows:

590.505 1. The Board may adopt a seal for its own use which must have imprinted thereon the words "Board for the Regulation of Liquefied Petroleum Gas." The care and custody of the seal is the responsibility of the Secretary-Treasurer of the Board.

2. The Board may appoint an Executive Secretary and may employ or, pursuant to ~~[NRS 284.173,]~~ **section 2 of this act**, contract with such other technical, clerical or investigative personnel as it deems necessary. The Board shall fix the compensation of the Executive Secretary and all other employees and independent contractors. Such compensation must be paid out of the money of the Board. The Board may require the Executive Secretary and any other employees and independent contractors to give a bond to the Board for the faithful performance of their duties, the premiums on the bond being paid out of the money of the Board.

3. In carrying out the provisions of NRS 590.465 to 590.645, inclusive, and holding its regular or special meetings, the Board:

(a) Shall adopt written policies setting forth procedures and methods of operation for the Board.

(b) May adopt such regulations as it deems necessary.

4. The Board shall submit to the Legislature and the Governor a biennial report before September 1 of each even-numbered year, covering the biennium ending June 30 of that year, of its transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the Board during the period and any complaints received by the Board.

5. The Board shall keep accurate records, minutes and audio recordings or transcripts of all meetings and, except as otherwise provided in NRS 241.035, the records, minutes, audio recordings and transcripts so kept must be open to public inspection at all reasonable times. The Board shall also keep a record of all applications for licenses and licenses issued by it. The record of applications and licenses is a public record.

Sec. 8. NRS 284.173 and 284.174 are hereby repealed.

Sec. 9. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

284.173 Definition; contracts for services.

1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

- (1) Withholding of income taxes by the State;
- (2) Coverage for industrial insurance provided by the State;
- (3) Participation in group insurance plans which may be available to employees of the State;
- (4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;
- (5) Accumulation of vacation leave or sick leave; or
- (6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than \$2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than \$10,000 or, in contracts necessary to preserve life and property, for amounts less than \$25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

➔ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

↳ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

284.174 Contracts for security services when personnel of Capitol Police Division not available.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a state agency, the state agency may, pursuant to NRS 284.173, contract with one or more independent contractors to provide such services.

2. An independent contractor with whom a state agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 43.

Bill read second time.

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

Amendment No. 827.

AN ACT relating to public works; revising the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works to include whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for **improper** conduct **of a serious nature** that relates to the ability of the applicant to perform the public work. (NRS 338.1375)

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

Section 1. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

- (1) The financial ability of the applicant to perform a contract;
- (2) The principal personnel of the applicant;
- (3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;
- (4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895;

(5) *Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for **improper** conduct **of a serious nature** that relates to the ability of the applicant to perform the public work;*

(6) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

~~{(6)}~~ (7) The truthfulness and completeness of the application.

Sec. 2. This act becomes effective upon passage and approval.
 Assemblywoman Kirkpatrick moved the adoption of the amendment.
 Amendment adopted.
 Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 354.
 Bill read second time.

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

Amendment No. 857.

AN ACT relating to land use planning; revising provisions relating to the appeal of land use decisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the governing body of each city and county is required to adopt an ordinance providing that an aggrieved person may appeal the decision of a planning commission, board of adjustment, hearing examiner or other similar official ~~to the governing body. (NRS 278.3195) A person who is aggrieved by a decision of the governing body concerning that appeal may then appeal the decision of the governing body to the district court by filing a petition for judicial review.~~ This bill ~~revises the terminology used in existing law concerning the rights of a person who has appeared before a planning commission, board of adjustment, hearing examiner or other similar official; and (2)~~ authorizes an aggrieved person to appeal the decision of a governing body that considered a recommendation of a planning commission, board of adjustment, hearing examiner or other similar official or a decision of a governing body which was made without the necessity of a decision or recommendation by a planning commission, board of adjustment, hearing examiner or other similar official. Solely within the confines of a county whose population is 400,000 or more (currently Clark County), this bill ~~defines~~ **also provides that, for the purpose of determining whether a person who is seeking judicial review of a decision of a governing body is an "aggrieved person" as a person who ~~is~~ ~~(1)~~ may seek such judicial review of the decision: (1) the person shall be deemed not to be aggrieved unless the person appeared before the governing body, planning commission, board of adjustment, hearing examiner or other similar official on the matter which is the subject of the decision and fully set forth his position and the grounds in support of his position; and (2) ~~suffered an injury as a result of the decision that has a substantial adverse effect on the person's property or other legal rights. (NRS 278.3195)~~ the person shall not be deemed to be aggrieved on the basis that the decision he is appealing may increase or create competition which he claims may be detrimental to his property rights or other legal interests.**

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

Section 1. NRS 278.3195 is hereby amended to read as follows:

278.3195 1. Except as otherwise provided in NRS 278.310, each governing body shall adopt an ordinance providing that any person who is aggrieved by a decision of: ~~appeared before:~~

(a) The planning commission, if the governing body has created a planning commission pursuant to NRS 278.030;

(b) The board of adjustment, if the governing body has created a board of adjustment pursuant to NRS 278.270;

(c) A hearing examiner, if the governing body has appointed a hearing examiner pursuant to NRS 278.262; or

(d) Any other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land,

↪ may appeal the decision ~~for the matter for which the person appeared~~ to the governing body. In a county whose population is 400,000 or more, a person shall be deemed to be aggrieved ~~have appeared~~ under an ordinance adopted pursuant to this subsection if the person appeared, either in person, through an authorized representative or in writing, before a person or entity described in paragraphs (a) to (d), inclusive, on the matter which is the subject of the decision.

2. Except as otherwise provided in NRS 278.310, an ordinance adopted pursuant to subsection 1 must set forth, without limitation:

(a) The period within which an appeal must be filed with the governing body.

(b) The procedures pursuant to which the governing body will hear the appeal.

(c) That the governing body may affirm, modify or reverse a decision.

(d) The period within which the governing body must render its decision except that:

(1) In a county whose population is 400,000 or more, that period must not exceed 45 days.

(2) In a county whose population is less than 400,000, that period must not exceed 60 days.

(e) That the decision of the governing body is a final decision for the purpose of judicial review.

(f) That, in reviewing a decision, the governing body will be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.

(g) That the governing body may charge the appellant a fee for the filing of an appeal.

3. In addition to the requirements set forth in subsection 2, in a county whose population is 400,000 or more, an ordinance adopted pursuant to subsection 1 must:

(a) Set forth procedures for the consolidation of appeals; and

(b) Prohibit the governing body from granting to an aggrieved person ~~appellant~~ more than two continuances on the same matter, unless the governing body determines, upon good cause shown, that the granting of additional continuances is warranted.

4. Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1 ~~[-]~~ and *is aggrieved by the decision of the governing body;*

(b) Is aggrieved by ~~the~~ a decision of ~~the~~ a governing body ~~[-]~~ *regarding the use of land in which the governing body considered a recommendation of a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1; or*

(c) *Is aggrieved by a decision of the governing body which, pursuant to the procedures contained in the applicable local ordinance, was made without the necessity of a decision or recommendation by a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1,*

↪ may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235. ~~[The appeal to the district court must be confined to the issues considered by the governing body. The remedy provided in this subsection is the exclusive remedy for a person described in paragraphs (a), (b) and (c).]~~

5. ~~[For the purposes of judicial review, in]~~ In a county whose population is 400,000 or more, for the purpose of determining whether a person ~~shall~~ who is appealing a decision by filing a petition for judicial review is aggrieved by the decision:

(a) The person shall be deemed not to be aggrieved by ~~the~~ the decision ~~[if, on the matter which is the subject of the decision:~~

~~(a) The]~~ unless the person appeared in person, through an authorized representative or in writing and fully set forth his position and the grounds in support of his position:

(1) Before a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 that considered the matter, if applicable; and

(2) Before the applicable governing body ~~[-]~~ and]

(b) The ~~[injury that the person claims he will suffer as a result of the decision will have a substantial adverse effect on his property rights or other legal interests, except that a]~~ person shall not be deemed to be aggrieved ~~[pursuant to this paragraph]~~ on the basis that the decision he is appealing may increase or create competition that he claims may be detrimental to his property rights or other legal interests.

6. The provisions of this section ~~[must not be construed to impair or prohibit a person from exercising the right to:~~

~~(a) Seek appropriate redress for any violation of state or federal law by a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 if the person has exhausted all available administrative remedies; or~~

~~(b) Appear before a governing body to express his opinion concerning any matter before the governing body, notwithstanding the fact that the person has previously failed to appear before a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 and that the person is not entitled to appeal a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1.~~ **do not apply to a petition to designate the location of a proposed establishment as a gaming enterprise district pursuant to NRS 463.3084 or 463.3086.**

7. As used in this section, "person" includes ~~the~~ :

(a) The Armed Forces of the United States or an official component or representative thereof ~~;~~ **and**

(b) Any governmental entity.

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 370.

Bill read second time and ordered to third reading.

Senate Bill No. 371.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 354 and 119 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 114 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Ocegüera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Concurrent Resolution No. 30; Senate Bill No. 43.

Motion carried.

Assemblyman Ocegüera moved that all rules be suspended and that Senate Bills Nos. 43, 370, and 371 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 43.

Bill read third time.

Roll call on Senate Bill No. 43:

YEAS—32.

NAYS—Christensen, Cobb, Gansert, Goedhart, Grady, Gustavson, Hambrick, McArthur, Settelmeyer—9.

EXCUSED—Arberry.

Senate Bill No. 43 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 370.

Bill read third time.

Roll call on Senate Bill No. 370:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 370 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 371.

Bill read third time.

Roll call on Senate Bill No. 371:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 371 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 114.

Bill read third time.

The following amendment was proposed by Assemblyman Conklin:

Amendment No. 844.

AN ACT relating to energy; requiring the Director of the Office of Energy to make certain determinations relating to systems for obtaining solar energy; prohibiting certain restrictions on the use of systems for obtaining solar energy or wind energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents which prohibit or unreasonably restrict an owner of property from using a system for obtaining solar ~~for wind~~ energy on his property. (NRS 111.239, 278.0208) **Sections 2 and 3** of this bill include within the prohibition any such covenant, restriction or condition which has the effect of prohibiting or

unreasonably restricting the property owner from using ~~such~~ a solar energy system. **Sections 2 and 3** also describe an unreasonable restriction on the use of a system for obtaining solar energy as including: (1) the placing of a restriction or requirement that decreases the efficiency or performance of a system for obtaining solar energy by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy; and (2) the prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.

Section 1 of this bill requires the Director, if requested to make a determination concerning the efficiency or performance of a system for obtaining solar energy pursuant to **section 2 or 3**, to make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, **section 1** authorizes the Director to request that information from the person requesting the determination and requires the Director to make the determination within 15 days after receiving the additional information.

Sections 1.5 and 2.5 of this bill set forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents, and against local ordinances, regulations or plans, which prohibit or unreasonably restrict an owner of property from using a system for obtaining wind energy on his property. Sections 1.5 and 2.5 describe an unreasonable restriction on the use of a system for obtaining wind energy as the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance. Sections 1.5 and 2.5 do not prohibit reasonable restrictions: (1) imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or (2) relating to the height, noise or safety of a system for obtaining wind energy.

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

Section 1. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources.
2. Utilize all available public and private means to provide information to the public about problems relating to energy and to explain how conservation of energy and its sources may be accomplished.
3. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

4. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

5. Encourage the development of:

(a) Any sources of renewable energy and any other energy projects which will benefit the State; and

(b) Any measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. In conjunction with the Desert Research Institute, review policies relating to the research and development of the State's geothermal resources and make recommendations to the appropriate state and federal agencies for establishing methods of developing the geothermal resources within the State.

7. Solicit and serve as the point of contact for grants and other money from the Federal Government and other sources to promote:

(a) Energy projects that enhance the economic development of the State;

(b) The use of renewable energy; and

(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

8. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Task Force, the Consumer's Advocate and the Public Utilities Commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

9. *If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, he may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.*

10. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 1.5. Chapter 111 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, any covenant, restriction or condition contained in a deed, contract or other legal

instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the height, noise or safety of a system for obtaining wind energy.

3. For the purposes of this section, “unreasonably restricts the owner of the property from using a system for obtaining wind energy” includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

Sec. 2. NRS 111.239 is hereby amended to read as follows:

111.239 1. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer ~~of~~ or sale of, or any other interest in real property ~~that~~ and which prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of the property from using a system for obtaining solar ~~for wind~~ energy on his property is void and unenforceable.

2. For the purposes of this section, ~~“unreasonably restricts the use of a system for obtaining solar or wind energy” means~~ the following shall be deemed to be unreasonable restrictions:

~~(a) The placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

~~(b)~~ The placing of a restriction or requirement on the use of ~~such~~ a system for obtaining solar energy which ~~significantly~~ decreases the efficiency or performance of the system by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

~~(c)~~ (b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.

Sec. 2.5. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2:

(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining wind energy on his property.

(b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the height, noise or safety of a system for obtaining wind energy.

3. For the purposes of this section, “unreasonably restricts the owner of the property from using a system for obtaining wind energy” includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

Sec. 3. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts *or has the effect of prohibiting or unreasonably restricting* the owner of real property from using a system for obtaining solar ~~for wind~~ energy on his property.

2. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer ~~of~~ *or* sale ~~of~~ or any other interest in ~~real property that~~ *and which* prohibits or unreasonably restricts *or has the effect of prohibiting or unreasonably restricting* the owner of the property from using a system for obtaining solar ~~for wind~~ energy on his property is void and unenforceable.

3. For the purposes of this section, ~~“unreasonably restricting the use of a system for obtaining solar or wind energy” means~~ *the following shall be deemed to be unreasonable restrictions:*

~~(a) The placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

~~(b)~~ *The placing of a restriction or requirement on the use of [such] a system for obtaining solar energy which [significantly] decreases the*

efficiency or performance of the system *by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which* does not allow for the use of an alternative system at a *substantially* comparable cost and with *substantially* comparable efficiency and performance.

~~(e)~~ **(b) *The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.***

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

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 243.

Bill read third time.

Remarks by Assemblymen Manendo, Goedhart, Atkinson, Goicoechea, Gustavson, Ocegueda, Settlemeyer, and Horne.

Roll call on Senate Bill No. 243:

YEAS—34.

NAYS—Carpenter, Cobb, Goedhart, Grady, Gustavson, Manendo, Settlemeyer—7.

EXCUSED—Arberry.

Senate Bill No. 243 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 122 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 122 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill 122 which is entitled:

AN ACT relating to the Office for Consumer Health Assistance; expanding the definition of "consumer" to include more situations in which assistance may be rendered; expanding the authority of the Director of the Office for Consumer Health Assistance to adopt necessary regulations; making various other changes relating to the Office for Consumer Health Assistance; and providing other matters properly relating thereto.

This bill would expand the authority of the Office for Consumer Health Assistance. In my executive budget I proposed to eliminate this office for two reasons. First this office, in some instances, provides duplicative services to the public. Second, this office, while important, is not an essential governmental service that the State of Nevada can afford to fund in these tough economic times. Consequently, there is no reason to expand the scope of the Office for

Consumer Health Assistance when this office was recommended for closure in the Executive Budget.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 122.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: “Shall the bill pass, notwithstanding the objections of the Governor?”

Remarks by Assemblymen Smith, Hardy, Gansert, Leslie, and Hogan.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 122:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

EXCUSED—Arberry.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 257 of the 75th Session.

Governor’s message stating his objections read.

OFFICE OF THE GOVERNOR

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 257 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill 257, which is entitled:

AN ACT relating to crimes; prohibiting the taking of an excessive number of certain free publications under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

This bill would make it a crime for a person to take more than ten copies of a free or complimentary periodical. Our law enforcement professionals should be focusing their limited time and resources on the prevention of major crimes and the protection of the public, particularly in these times when funding for law enforcement has been negatively impacted due to decreased government revenues. I do not see any benefit to the public by requiring our law enforcement professionals to investigate and prosecute the type of activity described in Assembly Bill 257.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 257.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: “Shall the bill pass, notwithstanding the objections of the Governor?”

Remarks by Assemblymen Kihuen, Anderson, and Carpenter.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 257:

YEAS—34.

NAYS—Christensen, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Settlemeyer—7.

EXCUSED—Arberry.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 480 of the 75th Session.

Governor’s message stating his objections read.

OFFICE OF THE GOVERNOR

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 480 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill 480, which is entitled:

AN ACT relating to water; revising the fees collected by the State Engineer; and providing other matters properly relating thereto.

This bill would enact several new and increased fees collected by the State Engineer with respect to water and water appropriation. I am not aware of any significant support by industry for any of the increased and additional fees contained in Assembly Bill 480. Moreover, a comparative study of western states places Nevada in the average range for these types of fees. Simply put, adding and increasing these fees during tough economic times just does not make economic sense.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 480.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: “Shall the bill pass, notwithstanding the objections of the Governor?”

Remarks by Assemblymen Kirkpatrick, Goicoechea, and Bobzien.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 480:

YEAS—37.

NAYS—Cobb, Gustavson, Hambrick, McArthur—4.

EXCUSED—Arberry.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 82, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, VICE *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 563.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 433.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 242, 422.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 30.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblywoman Koivisto.

Resolution adopted, as amended and ordered transmitted to the Senate.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 422.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 433.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 82.

Bill read second time.

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

Amendment No. 885.

AN ACT relating to elections; making various changes relating to the administration and conduct of elections; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill sets forth requirements for and responsibilities of an organizer of a voter registration drive, including registering with the

Secretary of State and attending training offered by the Secretary of State, and provides for penalties and the imposition of fines for violations.

Section 5 of this bill increases the deadline for filing written challenges of candidacy from 5 days to 10 days after the last day a person may withdraw his candidacy. (NRS 293.182)

Section 7 of this bill increases the maximum number of active and registered voters that election precincts may contain from 1,500 to 3,000 active and registered voters. (NRS 293.207)

Sections 8 and 15 of this bill provide that the creation of mailing precincts or absent ballot mailing precincts must be approved by the Secretary of State under certain circumstances. (NRS 293.213, 293.343)

Sections 1.9, 9, 11, 12, 14, 20 and 22 of this bill authorize the Secretary of State to establish a system for electors in the State to register to vote electronically. (NRS 293.1277, 293.250, 293.272, 293.2725, 293.506 and 293.517)

Section 10 of this bill provides that if two or more candidates in an election have the same given name and surname and one candidate is an incumbent, the word “Incumbent” must be written on the ballot next to name of the candidate who is the incumbent. (NRS 293.2565) **Section 13** of this bill requires the posting at polling places on election day of information concerning the eligibility of a candidate, question or other matter to appear on the ballot as a result of judicial determination or by operation of law. (NRS 293.3025)

Section 16 of this bill authorizes the Secretary of State to assess a charge, not to exceed the cost of printing the applications, against a political party or other entity that requests more than 50 applications to register to vote by mail in any 12-month period. (NRS 293.443)

Existing law requires county clerks to report to the Secretary of State certain information regarding primary and general elections. The Secretary of State is required to report this information to the Legislature not later than 30 days before the start of a regular legislative session. **Section 17.2** of this bill changes the deadline for that report to within 10 days before or after the first day of each regular legislative session. (NRS 293.4695)

Section 17.4 of this bill requires that recruitment offices of the United States Armed Forces serve as voter registration agencies. (NRS 293.504)

Section 18 of this bill prohibits a voter registration agency from knowingly employing a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.5045)

Section 19 of this bill prohibits a county clerk from knowingly appointing to be a field registrar any person who has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.505)

Section 22.2 of this bill changes the date on which a person who registers to vote by mail is deemed to be registered to the earlier of the date on which

the application is postmarked or received by the county clerk. (NRS 293.5235)

Section 23 of this bill amends the deadlines for the county clerk to transmit the number of registered voters in the county to the Secretary of State for the primary and general elections. (NRS 293.567)

Section 24 of this bill increases the penalty for intimidating voters from a gross misdemeanor to a category E felony. (NRS 293.710)

Section 25 of this bill increases the penalty for interfering with the conduct of an election from a gross misdemeanor to a category C felony. (NRS 293.730)

Section 25.2 of this bill provides that polling information from a voter regarding whether the voter intends to vote for or against a particular political party, candidate or ballot question is not "electioneering." (NRS 293.740)

Section 26 of this bill increases the penalty for the removal or destruction of certain voting supplies and equipment from a gross misdemeanor to a category ~~B~~ **D** felony. (NRS 293.750)

Section 27 of this bill provides that if a person tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots, such an act is punishable as: (1) a category ~~B~~ **C** felony ~~punishable by imprisonment in the state prison for a minimum term of not less than 2 years or more than 10 years,~~ if the act was committed with the intent to prevent the proper operation of that system, device or program; and (2) a category ~~A~~ **B** felony, punishable by imprisonment in the state prison for a ~~fixed~~ minimum term of ~~[40]~~ 2 years ~~with eligibility for parole beginning when a minimum of 15 years has been served,~~ and a maximum term of 20 years, if the act was committed with the intent to influence the outcome of an election. (NRS 293.755)

Section 28 of this bill makes certain unlawful acts relating to the registration of voters a category C felony rather than a category E felony. (NRS 293.800)

Section 29.3 of this bill requires certain persons to register with the Secretary of State before making an expenditure on behalf of a candidate or group of candidates which is not solicited or approved by the candidate or group.

Section 30 of this bill amends the definition of "committee for political action" to include a natural person. (NRS 294A.0055)

Sections 29.5, 29.7, 32.2-32.5, 33.1, 33.2, 34.2, 34.3, 35, 38.2, 40.5 and 41.5 of this bill provide that, except under certain circumstances, campaign contribution and expenditure reports related to candidates for state, county and district offices must be filed electronically with the Secretary of State. (NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.362, 294A.373, 294A.390)

Sections 32, 36 and 36.5 of this bill prohibit: (1) a person from committing to make certain campaign contributions; and (2) a candidate from

accepting a commitment to make certain campaign contributions. (NRS 294A.100, 294A.287, 294A.300)

Sections 33 and 35 of this bill provide the acceptable methods for disposing of unspent campaign contributions or unspent money in a legal defense fund. (NRS 294A.200, 294A.286)

Section 34 of this bill requires committees for political action to file with the Secretary of State an updated form of registration on or before January 15 of each year. (NRS 294A.230)

Existing law requires the Secretary of State to design a universal form for campaign contribution and expenditure reports. **Section 40.5** of this bill requires the Secretary of State to design a form for each campaign contribution and expenditure report. (NRS 294A.373)

Sections ~~[44.1, 44.2, 44.3]~~ 44.1-44.3 and 44.5-45.5 of this bill provide that, except under certain circumstances, appointed and elected public officers must file electronically statements of financial disclosure with the Secretary of State rather than the Nevada Commission on Ethics. (NRS 281A.290, 281A.600-281A.650) ~~[Section 44.4 of this bill requires that all ethical acknowledgment forms be filed with the Commission on Ethics not later than 30 days after a public officer takes office and annually thereafter on or before January 15. (NRS 281A.500)]~~

Section 46 repeals provisions governing the registration of and reporting of contributions and expenses by certain persons and groups relating to ballot questions. (NRS 294A.150, 294A.220, 294A.281-294A.284)

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1, 1.3 and 1.5 of this act.

Sec. 1.1. *"Organizer of voter registration" means any person who organizes a voter registration drive pursuant to section 1.5 of this act.*

Sec. 1.3. *"Voter registration drive" means distributing and collecting 10 or more applications to register to vote pursuant to section 1.5 of this act.*

Sec. 1.5. *1. Before commencing a voter registration drive, the organizer of voter registration shall:*

(a) File a statement of intent to conduct voter registration with the Secretary of State in the form prescribed by the Secretary of State; and

(b) Complete a training course offered by the Secretary of State for organizers of voter registration.

2. An organizer of voter registration:

(a) Shall maintain in the State a registered agent who resides or is located in this State upon whom all legal process and any demand or notice authorized by law to be served upon it may be served. The organizer of voter registration shall include the contact information for the registered agent with the statement of intent filed pursuant to subsection 1.

(b) May register voters in this State.

(c) May employ persons to assist the organizer of voter registration in registering voters in the State. The organizer of voter registration shall not provide compensation to any person hired pursuant to this paragraph that is based on the number of completed applications to register to vote that the person submits.

(d) Shall not knowingly employ a person to register voters in this State if the person has been convicted of a felony involving theft, fraud or dishonesty.

3. Except as otherwise provided in this subsection, a completed application to register to vote that is collected pursuant to a voter registration drive must be:

(a) Delivered personally to the county clerk not later than 10 calendar days after the elector signs the application; or

(b) Mailed to the county clerk and postmarked not later than 10 calendar days after the elector signs the application.

↪ Any completed application to register to vote that is signed by an elector 14 calendar days or less before the date for the close of registration set forth in NRS 293.560 and 293C.527 must be delivered or postmarked on the day on which the elector signs the application.

4. A person who registers voters in this State pursuant to a voter registration drive shall not:

(a) Seek to influence an applicant's political preference or party registration; or

(b) Make any statement or take any action to discourage an applicant from registering to vote.

↪ A person who violates any of the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. The Secretary of State shall impose the following fines for each violation:

(a) If an organizer of voter registration does not complete the training course offered by the Secretary of State pursuant to subsection 1, a fine of not more than \$1,000.

(b) If an organizer of voter registration does not file with the Secretary of State the contact information for its registered agent required pursuant to paragraph (a) of subsection 2, a fine of not more than \$1,000.

(c) If an organizer of voter registration employs a person in violation of paragraph (d) of subsection 2, a fine of not more than \$5,000 per person who is employed by the organizer of voter registration in violation of that paragraph.

(d) If an organizer of voter registration does not submit a completed application to register to vote within the applicable period set forth in subsection 3, a fine of not more than \$50 for each business day that the application is late.

6. *If the Secretary of State has imposed a fine against an organizer of voter registration pursuant to paragraph (d) of subsection 5 three times or more, the Secretary of State may impose an additional fine of not more than \$1,000.*

7. *The Secretary of State may adopt regulations necessary to administer the provisions of this section.*

Sec. 1.7. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, **and sections 1.1 and 1.3 of this act** have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county.

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. [The] ***Except as otherwise provided in this subsection, the*** county clerk shall rely only on the appearance of the signature and the address and date included with each signature ***in the file of applications to register to vote*** in making his determination. ***If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State, the county clerk may rely on such other indicia as prescribed by the Secretary of State in making his determination.***

4. Except as otherwise provided in subsection 6, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination and transmit the documents with the certificate to the Secretary of State. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the

Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

5. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

6. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

7. The Secretary of State may by regulation establish further procedures for carrying out the provisions of this section.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than ~~5~~ **10 calendar** days after the last day the person may withdraw his candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, including, without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge; and
- (c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order

directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which he filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is disqualified from entering upon the duties of the office for which he filed the declaration of candidacy or acceptance of candidacy.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 293.207 is hereby amended to read as follows:

293.207 1. Election precincts must be established on the basis of the number of registered voters therein, with a maximum of ~~1,500~~ **3,000** registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.

2. Except as otherwise provided in subsections 3 and 4, the county clerk may consolidate two or more contiguous election precincts into a single voting district to conduct a particular election as public convenience, necessity and economy may require.

3. If a county clerk proposes to consolidate two or more contiguous election precincts, in whole or in part, pursuant to subsection 2, the county clerk shall, at least 14 days before consolidating the precincts, cause notice of the proposed consolidation to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the consolidation.

4. A person may file a written objection to the proposed consolidation with the county clerk. The county clerk shall consider each written objection filed pursuant to this subsection before consolidating the precincts.

Sec. 8. NRS 293.213 is hereby amended to read as follows:

293.213 1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may ~~with the approval of the Secretary of State,~~ establish that precinct as a mailing precinct.

2. Except as otherwise provided in NRS 293.208, the county clerk in any county ~~where~~ **in which** an absent ballot central counting board is appointed may abolish two or more existing mailing precincts and combine those mailing precincts into absent ballot precincts. Those mailing precincts must be designated absent ballot mailing precincts.

3. In any county ~~where~~ **in which** an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

4. ***If a county clerk wishes to establish a mailing precinct or an absent ballot mailing precinct that does not meet the requirements of subsection 1, 2 or 3, the county clerk must obtain approval from the Secretary of State before establishing the mailing precinct or absent ballot mailing precinct.***

5. The county clerk shall, at least 14 days before establishing or designating a precinct as a mailing precinct or absent ballot mailing precinct or before abolishing a mailing precinct pursuant to this section, cause notice of such action to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the action.

Sec. 9. NRS 293.250 is hereby amended to read as follows:

293.250 1. The Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, registers, rosters, statements and abstracts required by the election laws of this State.

(b) The procedure to be followed ~~when~~ :

(1) If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State.

(2) When a computer is used to ~~register voters and to~~ keep records of registration.

2. The Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against ~~it~~ and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 10. NRS 293.2565 is hereby amended to read as follows:

293.2565 1. Except as otherwise provided in subsection 2, in any election regulated by this chapter, the name of a candidate printed on a ballot may be the given name and surname of the candidate or a contraction or familiar form of his given name followed by his surname. A nickname of not more than 10 letters may be incorporated into the name of a candidate. The nickname must be in quotation marks and appear immediately before the surname of the candidate. A nickname must not indicate any political, economic, social or religious view or affiliation and must not be the name of any person, living or dead, whose reputation is known on a statewide, nationwide or worldwide basis ~~it~~ or in any other manner deceive a voter regarding the person or principles for which he is voting.

2. ~~Except as otherwise provided in subsection 3, in~~ **In** any election regulated by this chapter, if two or more candidates have the same **given name and** surname ~~for surnames so similar as to be likely to cause confusion~~ and:

(a) None of the candidates is an incumbent, the middle names or middle initials, if any, of the candidates must be included in the names of the candidates; ~~as printed on the ballot;~~ or

(b) One of the candidates is an incumbent, the name of the incumbent must be listed first and ~~must be printed in bold type.~~

~~3. Where a system of voting other than by paper ballot is used and the provisions of paragraph (b) of subsection 2 are applicable, the Secretary of State may distinguish a candidate who is an incumbent in a manner other than printing the name of the incumbent in bold type provided that the manner used clearly emphasizes the name of the incumbent in a manner similar to printing his name in bold type.]~~ ***the word "Incumbent" must be written next to the name of the candidate who is the incumbent.***

Sec. 11. NRS 293.272 is hereby amended to read as follows:

293.272 1. Except as otherwise provided in subsection 2 and in NRS 293.2725 and 293.3083, a person who registered ***electronically or by mail*** to vote ~~pursuant to the provisions of NRS 293.5235]~~ shall, for the first election in which he votes at which that registration is valid, vote in person unless he has previously voted in the county in which he is registered to vote.

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

(a) Is entitled to vote in the manner prescribed in NRS 293.343 to 293.355, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293.316 or 293.3165;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the county clerk.

Sec. 12. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers ***electronically or*** by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck ~~or~~ or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck ~~or~~ or document issued by a governmental entity, including a check which indicates

the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck ~~[-]~~ or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of his social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 13. NRS 293.3025 is hereby amended to read as follows:

293.3025 The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:

1. A sample ballot;

2. Information concerning the date and hours of operation of the polling place;

3. Instructions for voting and casting a ballot, including a provisional ballot;

4. Instructions concerning the identification required for persons who registered by mail and are first-time voters for federal office in this State;

5. Information concerning the accessibility of polling places to persons with disabilities; ~~and~~

6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation ~~[-]~~; *and*

7. Information concerning the eligibility of a candidate, a ballot question or any other matter appearing on the ballot as a result of judicial determination or by operation of law, if any.

Sec. 14. NRS 293.3083 is hereby amended to read as follows:

293.3083 A person may cast a ballot by mail to vote for a candidate for federal office, which must be treated as a provisional ballot by the county or city clerk if the person:

1. Applies *electronically or* by mail to register to vote and has not previously voted in an election for federal office in this State;

2. Fails to provide the identification required pursuant to paragraph (b) of subsection 1 of NRS 293.2725 to the county or city clerk at the time that he mails his ballot; and

3. Completes the written affirmation set forth in subsection 1 of NRS 293.3082.

Sec. 15. NRS 293.343 is hereby amended to read as follows:

293.343 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county clerk *and Secretary of State* that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county clerk has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

3. In a county whose population is 100,000 or more, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) Shall designate at least one polling place in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

4. In a county whose population is less than 100,000, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) May designate one or more polling places in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

5. Polling places designated pursuant to subsection 3 or 4 may include, without limitation, polling places located as closely as practicable to the mailing precincts.

Sec. 16. NRS 293.443 is hereby amended to read as follows:

293.443 1. Except as otherwise provided in subsection 3, the expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter or chapter 293C of NRS and all expenses necessarily incurred in the preparation for, or the conduct of, any such election is a charge upon the municipality, county, district or State, as the case may be.

2. The county or city clerk may submit the printing of ballots for competitive bidding.

3. If a political party or other entity requests more than 50 applications to register to vote by mail in any 12-month period, the clerk *or the Secretary of State* may assess a charge, not to exceed the cost of printing the applications.

Sec. 17. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, ~~294A.150,~~ 294A.200, 294A.210, ~~294A.220,~~ 294A.270, 294A.280, ~~294A.283,~~ 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 17.2. NRS 293.4695 is hereby amended to read as follows:

293.4695 1. Each county clerk shall collect the following information regarding each primary and general election, on a form provided by the Secretary of State and made available at each polling place in the county, each polling place for early voting in the county, the office of the county clerk and any other location deemed appropriate by the Secretary of State:

(a) The number of ballots that have been discarded or for any reason not included in the final canvass of votes, along with an explanation for the exclusion of each such ballot from the final canvass of votes.

(b) A report on each malfunction of any mechanical voting system, including, without limitation:

- (1) Any known reason for the malfunction;
- (2) The length of time during which the mechanical voting system could not be used;
- (3) Any remedy for the malfunction which was used at the time of the malfunction; and
- (4) Any effect the malfunction had on the election process.

(c) A list of each polling place not open during the time prescribed pursuant to NRS 293.273 and an account explaining why each such polling place was not open during the time prescribed pursuant to NRS 293.273.

(d) A description of each challenge made to the eligibility of a voter pursuant to NRS 293.303 and the result of each such challenge.

(e) A description of each complaint regarding a ballot cast by mail or facsimile filed with the county clerk and the resolution, if any, of the complaint.

(f) The results of any audit of election procedures and practices conducted pursuant to regulations adopted by the Secretary of State pursuant to this chapter.

(g) The number of provisional ballots cast and the reason for the casting of each provisional ballot.

2. Each county clerk shall submit to the Secretary of State, on a form provided by the Secretary of State, the information collected pursuant to subsection 1 not more than 60 days after each primary and general election.

3. The Secretary of State may contact any political party and request information to assist in the investigation of any allegation of voter intimidation.

4. The Secretary of State shall establish and maintain an Internet website pursuant to which he shall solicit and collect voter comments regarding election processes.

5. The Secretary of State shall compile the information and comments collected pursuant to this section into a report that he shall submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~[not later than 30]~~ **within 10** days before *or after* the ~~[start]~~ **first day** of each regular session of the Legislature.

6. The Secretary of State may make the report required pursuant to subsection 5 available on an Internet website established and maintained by the Secretary of State.

Sec. 17.4. NRS 293.504 is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons in this State who are disabled;

- (c) The offices of the Department of Motor Vehicles;
- (d) The offices of the city and county clerks;
- (e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable;

~~and~~
 (f) **Recruitment offices of the United States Armed Forces; and**
 (g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) ~~Make~~ **Except as otherwise provided in subsection 3, distribute** applications to register to vote which may be returned by mail ~~available to each person who applies for or receives~~ **with each application for** services or assistance from the agency ~~and with each application for~~ **recertification, renewal or a change of address related to such services or assistance.**

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. **A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency if the person declines to register to vote and submits to the agency a written form that meets the requirements of 42 U.S.C. § 1973gg-5(6). No information related to the declination to register to vote may be used for any purpose other than voter registration.**

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if he receives the application not later than 5 days after that date.

~~4-] 5.~~ The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 18. NRS 293.5045 is hereby amended to read as follows:

293.5045 1. A person who works in a voter registration agency shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display a political preference or party allegiance in a place where it can be seen by an applicant;

(c) Make any statement or take any action to discourage an applicant from registering to vote; or

(d) Make any statement or take any action which would lead the applicant to believe that a decision to register to vote has any effect on the availability of any services or benefits provided by the State or Federal Government.

2. A person who violates any of the provisions of ~~[this section]~~ **subsection 1** is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. A voter registration agency shall not knowingly employ a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. The Secretary of State may impose against a voter registration agency a fine of not more than \$5,000 per person who is employed by the voter registration agency in violation of this subsection.

Sec. 19. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform his duties as the county clerk may direct. **The county clerk shall not knowingly appoint any person to be a field registrar who has been convicted of a felony involving theft, fraud or dishonesty.**

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his possession five or more completed applications to register to vote, he shall forward them to the county clerk, but in no case may he hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his possession immediately after the fifth Sunday preceding an election. Within 5 days after the fifth Sunday preceding any general election or general city election, a field registrar shall return all unused applications in his possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Delegate any of his duties to another person; or
- (b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself out to be or attempt to exercise the duties of a field registrar unless he has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Solicit a vote for or against a particular question or candidate;
- (b) Speak to a voter on the subject of marking his ballot for or against a particular question or candidate; or
- (c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,
↪ while he is registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, he shall issue a receipt to the field registrar. The receipt must include:

- (a) The number of persons registered; and
- (b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or
- (b) Register a person who fails to provide satisfactory proof of identification and the address at which he actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

(a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his name on the duplicate copy or receipt retained by the voter upon completion of the form; and

(b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 20. NRS 293.506 is hereby amended to read as follows:

293.506 **1.** A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to ~~register voters and to~~ keep records of registration. ~~[The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to his registration.]~~

2. *The Secretary of State may establish a system to allow persons to submit applications electronically to register to vote and adopt any regulations necessary to carry out the provisions of this subsection.*

Sec. 21. NRS 293.510 is hereby amended to read as follows:

293.510 **1.** In counties ~~where~~ **in which** computers are not used to register voters, ~~the~~ **a** county clerk shall:

(a) Segregate original applications to register to vote according to the precinct in which the registered voters reside and arrange the applications in each precinct or district in alphabetical order. The applications for each precinct or district must be kept in a separate binder which is marked with the number of the precinct or district. This binder constitutes the election board register.

(b) Arrange the duplicate applications of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.

2. In any county ~~where~~ **in which** a computer is used to register voters, ~~the~~ **a** county clerk shall:

(a) Arrange the original applications to register to vote for the entire county in a manner in which an original application may be quickly located. These original applications constitute the registrar of voters' register.

(b) Segregate the applications to register to vote in a computer file according to the precinct or district in which the registered voters reside ~~and~~ and for each precinct or district, have printed a computer listing which contains the applications to register to vote in alphabetical order. These listings of applications to register to vote must be placed in separate binders which are marked with the number of the precinct or district. These binders constitute the election board registers.

Sec. 22. NRS 293.517 is hereby amended to read as follows:

293.517 **1.** Any elector residing within the county may register ~~to~~ **to** ~~vote:~~

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar, ~~or~~ **or** a voter registration agency ~~or~~ **or a person who registers voters pursuant to a voter registration drive**, completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his identity and right to vote ~~and~~ and providing proof of his residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; ~~for~~

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237 ~~for~~; *or*

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

↪ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name ~~for~~ and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; ~~for~~

(d) At any voter registration agency ~~for~~; *or*

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

↪ If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. Except as otherwise provided in subsection 7, an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote pursuant to NRS 293.485, he shall issue a voter registration card to the voter which contains:

(a) The name, address, political affiliation and precinct number of the voter;

- (b) The date of issuance; and
- (c) The signature of the county clerk.

7. If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if he believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk as to whether:

(a) The application to register to vote of the elector is complete and the elector is eligible to vote pursuant to NRS 293.485; and

(b) The county clerk should proceed to process the application to register to vote.

➔ If the district attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.

Sec. 22.2. 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 **earlier of the date on which** the application is **postmarked or** received by the county clerk.~~

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. 23. NRS 293.567 is hereby amended to read as follows:

293.567 After the close of registration for each primary election but not later than the ~~second Friday next~~ **Friday** preceding the primary election and after the close of registration for each general election but not later than the ~~second Friday next~~ **Friday** preceding the general election, the county clerk shall ascertain by precinct and district the number of registered voters in the county and their political affiliation, if any, and shall transmit that information to the Secretary of State.

Sec. 24. NRS 293.710 is hereby amended to read as follows:

293.710 1. It is unlawful for any person, in connection with any election or petition ~~or~~ **or the registration of voters**, whether acting himself or through another person in his behalf, to:

(a) Use or threaten to use any force, **intimidation**, coercion, violence, restraint or undue influence;

(b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;

(c) Expose or publish or threaten to expose or publish any fact concerning another in order to induce or compel such other to vote or refrain from voting for any candidate or any question;

(d) Impede or prevent, by abduction, duress or fraudulent contrivance, the free exercise of the franchise by any voter, or thereby to compel, induce or prevail upon any elector to give or refrain from giving his vote; or

(e) Discharge or change the place of employment of any employee with the intent to impede or prevent the free exercise of the franchise by such employee.

2. ~~Unless a greater penalty is provided by law, any violation of~~ **A person who violates a provision of this section is ~~a gross misdemeanor.~~ guilty of a category E felony and shall be punished as provided in NRS 193.130.**

Sec. 25. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

(a) Remain in or outside of any polling place so as to interfere with the conduct of the election.

(b) Except an election board officer, receive from any voter a ballot prepared by the voter.

(c) Remove a ballot from any polling place before the closing of the polls.

(d) Apply for or receive a ballot at any election precinct or district other than the one at which he is entitled to vote.

(e) Show his ballot to any person, after voting, so as to reveal any of the names voted for.

(f) Inside a polling place, ask another person for whom he intends to vote.

(g) Except an election board officer, deliver a ballot to a voter.

(h) Except an election board officer in the course of his official duties, inside a polling place, ask another person his name, address or political affiliation.

2. A voter shall not:

(a) Receive a ballot from any person other than an election board officer.

(b) Deliver to an election board or to any member thereof any ballot other than the one received.

(c) Place any mark upon his ballot by which it may afterward be identified as the one voted by him.

3. Any person who violates any provision of this section is guilty of a ~~gross misdemeanor.~~ **category C felony and shall be punished as provided in NRS 193.130.**

Sec. 25.2. NRS 293.740 is hereby amended to read as follows:

293.740 1. Except as otherwise provided in subsection 2, it is unlawful inside a polling place or within 100 feet from the entrance to the building or other structure in which a polling place is located:

(a) For any person to solicit a vote or speak to a voter on the subject of marking his ballot.

(b) For any person, including an election board officer, to do any electioneering on election day.

↳ The county clerk or registrar of voters shall ensure that, at the outer limits of the area within which electioneering is prohibited, notices are continuously posted on which are printed in large letters "Distance Marker: No electioneering between this point and the entrance to the polling place."

2. The provisions of subsection 1 do not apply to the conduct of a person in a private residence or on commercial or residential property that is within 100 feet from the entrance to a building or other structure in which a polling place is located. The provisions of subsection 1 are not intended to prohibit a person from voting solely because he is wearing a prohibited political insigne and is reasonably unable to remove the insigne or cover it. In such a case, the election board officer shall take such action as is necessary to allow the voter to vote as expediently as possible and then assist the voter in exiting the polling place as soon as is possible.

3. Any person who violates any provision of this section is guilty of a gross misdemeanor.

4. As used in this section, "electioneering" means campaigning for or against a candidate, ballot question or political party by:

(a) Posting signs relating to the support of or opposition to a candidate, ballot question or political party;

(b) Distributing literature relating to the support of or opposition to a candidate, ballot question or political party;

(c) Using loudspeakers to broadcast information relating to the support of or opposition to a candidate, ballot question or political party;

(d) Buying, selling, wearing or displaying any badge, button or other insigne which is designed or tends to aid or promote the success or defeat of any political party or a candidate or ballot question to be voted upon at that election; *or*

(e) ~~Polling or otherwise soliciting from a voter information as to whether the voter intends to vote or has voted for or against a particular political party, candidate or ballot question; or~~

~~(f) Soliciting signatures to any kind of petition.~~

Sec. 26. NRS 293.750 is hereby amended to read as follows:

293.750 Any person who, during an election, removes or destroys any of the supplies or equipment placed in the booths or compartments ~~is~~ or removes or defaces the cards of instruction posted as prescribed by this chapter ~~is~~ is guilty of a ~~[gross misdemeanor.] category ~~B~~ D felony and shall be punished ~~(b) by imprisonment in the state prison for a minimum term~~~~

~~of not less than 2 years and a maximum term of not more than 10 years.] as provided in NRS 193.130.~~

Sec. 27. NRS 293.755 is hereby amended to read as follows:

293.755 1. A person who tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a category ~~D~~ ~~B~~ C felony and shall be punished as provided in NRS 193.130. ~~[by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.]~~

2. *A person who tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to influence the outcome of an election is guilty of a category ~~A~~ B felony and shall be punished by imprisonment in the state prison for a ~~definite~~ minimum term of ~~40~~ not less than 2 years ~~[, with eligibility for parole beginning when a minimum of 15 years has been served.] and a maximum term of not more than 20 years.~~*

3. The county or city clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Sec. 28. NRS 293.800 is hereby amended to read as follows:

293.800 1. A person who, for himself or another person, willfully gives a false answer or answers to questions propounded to him by the registrar or field registrar of voters relating to the information called for by the application to register to vote, or who willfully falsifies his application in any particular, or who violates any of the provisions of the election laws of this State ~~F~~ or knowingly encourages another person to violate those laws is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A public officer or other person, upon whom any duty is imposed by this title, who willfully neglects his duty ~~F~~ or willfully performs it in such a way as to hinder the objects and purposes of the election laws of this State, except where another penalty is provided, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. If the person is a public officer, his office is forfeited upon conviction of any offense provided for in subsection 2.

4. A person who causes or endeavors to cause his name to be registered, knowing that he is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he causes or endeavors to cause the registration to be made, and any other person who induces, aids or abets the person in the commission of either of the acts is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. A field registrar or other person who ~~[-]~~ *provides to an elector an application to register to vote and:*

(a) Knowingly falsifies an application ~~[to register to vote]~~ or knowingly causes an application to be falsified; ~~or]~~

(b) Knowingly provides money or other compensation to another for a falsified application ~~[to register to vote,]~~; *or*

(c) *Intentionally fails to submit to the county clerk a completed application on account of the elector's political party affiliation,*

↪ is guilty of a category ~~[E]~~ C felony and shall be punished as provided in NRS 193.130.

Sec. 29. NRS 293C.715 is hereby amended to read as follows:

293C.715 1. If a city clerk maintains a website on the Internet for information relating to *candidates and* elections, the website must contain public information maintained, collected or compiled by the city clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a form that a registered voter may search the list to determine the location of the polling place at which the registered voter is required to cast a ballot; ~~and]~~

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293C.387 ~~[-]~~; *and*

(c) *The reports that the city clerk receives pursuant to chapter 294A of NRS from candidates for city office.*

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a city clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, a county clerk or another city clerk, the city clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 29.2. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 29.3 ~~[-]~~ 29.5 and 29.7 of this act.

Sec. 29.3. 1. *Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates, or of any person involved in the campaign of that candidate or group and who intends to make an expenditure in excess of \$100 on behalf of the candidate or group which is not solicited or approved by the candidate or group shall register with the Secretary of State before making any such expenditure.*

2. *The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.*

Sec. 29.5. 1. ~~A candidate [person, committee, political party, group or business entity] that is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the candidate :~~ ~~[person, committee, political party, group or business entity:]~~

~~(a) Did not receive or expend money in excess of \$10,000 [+] in the previous calendar year; and~~

~~(b) [Submits to] Has on file with the Secretary of State an affidavit stating that:~~

~~(1) The candidate [person, committee, political party, group or business entity] does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and~~

~~(2) The candidate [person, committee, political party, group or business entity] does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.~~

2. ~~Each~~ To excuse the electronic filing of the report, the affidavit [submitted pursuant to] described in subsection 1 must be [++]:

~~(a) In the form prescribed by the Secretary of State and signed under penalty of perjury.~~

~~(b) Filed within 10 days after the person becomes a candidate pursuant to NRS 294A.005.~~

3. A candidate that is excused from filing the report electronically may file the report by transmitting the forms by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 29.7. 1. A person, committee, political party, group or business entity that is required to file a report described in subsection 1 of NRS 294A.373 is excused from filing the report electronically if the person, committee, political party, group or business entity:

~~(a) Did not receive or expend money in excess of \$10,000 in the previous calendar year; and~~

~~(b) Has on file with the Secretary of State an affidavit stating that:~~

~~(1) The person, committee, political party, group or business entity does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and~~

~~(2) The person, committee, political party, group or business entity does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.~~

2. To excuse the electronic filing of the report, the affidavit described in subsection 1 must be:

~~(a) In the form prescribed by the Secretary of State and signed under penalty of perjury.~~

(b) Filed:

(1) At least 10 days before any report described in subsection 1 of NRS 294A.373 is required to be filed by the person, committee, political party, group or business entity.

(2) Not earlier than January 1 and not later than January 15 of each year, regardless of whether or not the person, committee, political party, group or business entity was required to file any report described in subsection 1 of NRS 294A.373 in the previous year.

3. A person, committee, political party, group or business entity that has properly filed the affidavit pursuant to this section may file the relevant report with the Secretary of State by transmitting the forms by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 30. NRS 294A.0055 is hereby amended to read as follows:

294A.0055 1. "Committee for political action" means any ***individual natural person or*** group of natural persons or entities that solicits or receives contributions from any other person, group or entity and:

(a) Makes or intends to make contributions to candidates or other persons;

or

(b) Makes or intends to make expenditures,

↳ designed to affect the outcome of any primary, general or special election or question on the ballot.

2. "Committee for political action" does not include:

(a) An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts.

(b) An entity solely because it provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public.

(c) ~~An individual natural person.~~

~~(d)~~ An individual corporation or other business organization who has filed articles of incorporation or other documentation of organization with the Secretary of State pursuant to title 7 of NRS.

~~(e)~~ (d) A labor union.

~~(f)~~ (e) A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as campaign contributions or expenditures by the candidate.

~~(g)~~ (f) A committee for the recall of a public officer.

Sec. 31. ~~NRS 294A.007 is hereby amended to read as follows:~~

~~294A.007—1. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes:~~

~~(a) The payment by any person, other than a candidate, of compensation for the personal services of another person which are rendered to a:~~

~~(1) Candidate;~~

~~(2) Person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group; or~~

~~(3) Committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates, [, or~~

~~(4) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot,]~~

~~without charge to the candidate, person, committee or political party.~~

~~(b) The value of services provided in kind for which money would have otherwise been paid, such as paid polling and resulting data, paid direct mail, paid solicitation by telephone, any paid paraphernalia that was printed or otherwise produced to promote a campaign and the use of paid personnel to assist in a campaign.~~

~~2. As used in this section, "volunteer" means a person who does not receive compensation of any kind, directly or indirectly, for the services he provides to a campaign.] (Deleted by amendment.)~~

Sec. 32. NRS 294A.100 is hereby amended to read as follows:

294A.100 1. A person shall not make *or commit to make* a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds \$5,000 for the primary election or primary city election, regardless of the number of candidates for the office, and \$5,000 for the general election or general city election, regardless of the number of candidates for the office. ~~[, during the period:~~

~~(a) Beginning from 30 days before the regular session of the Legislature immediately following the last election for the office and ending 30 days before the regular session of the Legislature immediately following the next election for the office, if that office is a state, district, county or township office; or~~

~~(b) Beginning from 30 days after the last election for the office and ending 30 days before the next general city election for the office, if that office is a city office.]~~

2. A candidate shall not accept a contribution *or commitment to make a contribution* made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 32.2. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 he received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this

subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

→ report each campaign contribution in excess of \$100 he receives during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

→ report each campaign contribution in excess of \$100 he received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

→ report each campaign contribution in excess of \$100 he received during the period and contributions received during the reporting period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS

294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions that he receives on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign contributions must be ~~filed~~:

(a) *If the candidate is a candidate for city office*, filed with the ~~officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A~~ *city clerk*. ~~The candidate may mail or transmit~~ by transmitting the report to ~~that officer~~ *the city clerk* by regular mail, certified mail, facsimile machine, ~~or~~ electronic means ~~or~~ or personal delivery.

(b) *Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.*

7. A report shall be deemed to be filed ~~with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On~~ *on* the date that it was received by the ~~officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~7. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after he receives the report.] *Secretary of State or city clerk, as the case may be.*~~

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 32.3. NRS 294A.125 is hereby amended to read as follows:

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives contributions in any year before the year in which the general election or

general city election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which he receives contributions in excess of \$10,000, list each of the contributions that he receives and the expenditures in excess of \$100 made in that year.

(b) Each year after the year in which he received contributions in excess of \$10,000, until the year of the general election or general city election in which the candidate intends to seek election to public office is held, list each of the contributions that he received and the expenditures in excess of \$100 made in that year.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of \$100 and contributions that a contributor has made cumulatively in excess of that amount.

4. The report must be : ~~filed;~~

(a) ~~With the officer with whom the candidate will file the declaration of candidacy or acceptance of candidacy for the public office the candidate intends to seek. A] If the candidate is a candidate for city office, filed with the city clerk [.~~ The candidate may mail or transmit by transmitting the report to ~~that officer]~~ the city clerk by regular mail, certified mail, facsimile machine, ~~or~~ electronic means [.] or personal delivery.

(b) *Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.*

5. A report shall be deemed to be filed ~~with the officer:~~

~~(1) On the date it was mailed if it was sent by certified mail.~~

~~(2) On] on the date it was received by the [officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~(b) On or before January 15 of the year immediately after the year for which the report is made.~~

~~5.—A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report of contributions and expenditures pursuant to subsection 4 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.] *Secretary of State or city clerk, as the case may be.*~~

Sec. 32.4. NRS 294A.128 is hereby amended to read as follows:

294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the

period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:

(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;

(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and

(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

~~[4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~

Sec. 32.5. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group ~~[]~~ and every committee for political action, political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates **and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or city general election** shall, not later than January 15 of each year that the provisions of this subsection apply to the person, **group of persons,** committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 he or it received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this subsection apply to the person, **group of persons,** committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office ~~[]~~ **or, as pertains to persons who advocate the passage or defeat of a question**

or group of questions on a ballot, each year in which a general election or general city election is held for each question for which the person or group of persons advocates passage or defeat.

2. Every person, group of persons, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election or on which the ballot question or group of questions appears is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election, ~~for that office,~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, ~~for that office,~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, ~~for that office,~~ for the period from 11 days before the general election or general city election through June 30 of that year,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group of persons, committee, political party or business entity under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of \$100 since the beginning of the current reporting period.

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election shall, if the general election or general city election for the office for which the candidate or a candidate in

the group of candidates seeks election or on which the ballot question or group of questions appears is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election, ~~for that office,~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, ~~for that office,~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group of persons, committee, political party or business entity under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports of contributions required pursuant to this section must be : ~~filed with:~~

(a) ~~If the candidate is elected from one county, the county clerk of that county;~~

~~(b) If the candidate is [elected from one city,] a candidate for city office ~~or~~ or if the question or group of questions is submitted to the voters of one city, filed with the city clerk ~~of that city~~ ; or~~

~~(c) If [A person, committee, political party or business entity may file] by transmitting the report ~~with~~ to the city clerk by regular mail, certified mail, facsimile machine, ~~or~~ electronic means ~~or~~ or personal delivery.~~

~~(b) Except as otherwise provided in section ~~29.5~~ 29.7 of this act, if the candidate is [elected from more than one county or city,] a candidate for state, district or county office ~~or~~ or if the question or group of questions is submitted to more than one city or to one or more counties, filed electronically with the Secretary of State.~~

8. ~~[A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.] A report shall be deemed to be filed [with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On] on the date that it was received by the [officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9.—Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.~~

~~10.] Secretary of State or city clerk, as the case may be.~~

9. Every person, group of persons, committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 33. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of \$100 that he incurs and each amount in excess of \$100 that he disposes of pursuant to NRS 294A.160 **or subsection 4 of NRS 294A.286** during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[-]~~ **or 294A.286.**

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

→ report each of the campaign expenses in excess of \$100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to ~~to~~ NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

→ report each of the campaign expenses in excess of \$100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

→ report each of the campaign expenses in excess of \$100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of \$100 that he incurs on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means ~~[]~~ or delivered personally.

7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after ~~he receives~~ receipt of the report.

Sec. 33.1. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of \$100 that he incurs and each amount in excess of \$100 that he disposes of pursuant to NRS 294A.160 or subsection 4 of NRS 294A.286 during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

→ report each of the campaign expenses in excess of \$100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

→ report each of the campaign expenses in excess of \$100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

→ report each of the campaign expenses in excess of \$100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of \$100 that he incurs on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be :

(a) ~~If the candidate is a candidate for city office, filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy.] city clerk.~~ ~~A candidate may mail or transmit~~ **by transmitting** the report to ~~that officer]~~ **the city clerk** by regular mail, certified mail, facsimile machine, ~~for]~~ **electronic means,** ~~for]~~ **or personal delivery.**

(b) **Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, county or district office, filed electronically with the Secretary of State.**

7. A report shall be deemed to be filed ~~with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On] on the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means or delivered personally.~~

~~7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the] Secretary of State [within 10 working days after receipt of the report.] or city clerk, as the case may be.~~

Sec. 33.2. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, ~~for]~~ and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates **and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election** shall, not later than January 15 of each year that the provisions of this subsection apply to the person, **group of persons,** committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates, ~~for]~~ a candidate in the group of candidates **or to advocate the passage or defeat of a question or group of questions** in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the **group of persons,** committee, political party or business entity under penalty of perjury. The provisions of

this subsection apply to the person, group of persons, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office ~~[]~~ or, as pertains to persons who advocate the passage or defeat of a question or group of questions on a ballot, each year in which a general election or general city election is held for each question for which the person or group of persons advocates passage or defeat.

2. Every person, group of persons, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election or on which the ballot question or group of questions appears is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election, ~~for that office,~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, ~~for that office,~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, ~~for that office,~~ for the period from 11 days before the general election or general city election through the June 30 of that year,

→ report each expenditure made during the period on behalf of the candidate, the group of candidates, ~~for~~ a candidate in the group of candidates or to advocate the passage or defeat of a question or group of questions in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group of persons, committee, political party or business entity under penalty of perjury.

3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election shall, if the general election or general city election for the office for which the candidate or a candidate in

the group of candidates seeks election *or on which the ballot question or group of questions appears* is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election, ~~for that office,~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, ~~for that office,~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

↪ report each expenditure made during the period on behalf of the candidate, the group of candidates, ~~for~~ a candidate in the group of candidates *or to advocate the passage or defeat of the question or group of questions* in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the *group,* committee, political party or business entity under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

↪ report each expenditure made during the period on behalf of the candidate, the group of candidates, ~~for~~ a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports must be : ~~filed with:~~

(a) ~~If the candidate is elected from one county, the county clerk of that county;~~

~~(b) If the candidate is elected from one city,] a candidate for city office ~~(,]~~ or if the question or group of questions is submitted to the voters of one city, filed with~~ the city clerk of that city ~~(, or]~~ by transmitting the report to the city clerk by regular mail, certified mail, facsimile machine, electronic means or personal delivery.

~~(c) (b) ~~]]~~ Except as otherwise provided in section 29.7 of this act, if the candidate is ~~elected from more than one county or city,] a candidate for state, district or county office ~~(,]~~ or if the question or group of questions is submitted to more than one city or to one or more counties, filed electronically with~~ the Secretary of State.~~

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. ~~[A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.]~~

9. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On] on the date that it was received by the [officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9.—Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.] Secretary of State or city clerk, as the case may be.~~

10. Every person, group of persons, committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 34. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.

2. The form must require:

(a) The name of the committee;

(b) The purpose for which it was organized;

(c) The names, addresses and telephone numbers of its officers;

(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;

(e) The name, address and telephone number of its registered agent; and

(f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State ~~an~~ :

(a) *An* amended form for registration within 30 days after any change in the information contained in the form for registration.

(b) *A form for registration on or before January 15 of each year, regardless of whether there is a change in the information contained in the most recent form for registration filed by the committee for political action with the Secretary of State.*

4. The Secretary of State shall include on his Internet website the information required pursuant to subsection 2.

Sec. 34.2. NRS 294A.270 is hereby amended to read as follows:

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

↪ report each contribution received or made by the committee in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

4. ~~Each~~ *Except as otherwise provided in section ~~29.5~~ 29.7 of this act, each* report of contributions must be filed *electronically* with the Secretary of State. ~~[The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On~~ *on* the date that it was received by the Secretary of State . ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

5. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution, whether from or to a natural person, association or corporation, in excess of \$100 and contributions which a contributor or the committee has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 34.3. NRS 294A.280 is hereby amended to read as follows:

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

↪ report each expenditure made by the committee in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each expenditure made by the committee in excess of \$100.

4. ~~Each~~ **Except as otherwise provided in section ~~29.5~~ 29.7 of this act, each** report of expenditures must be filed **electronically** with the Secretary of State. ~~[The committee may mail or transmit the report to the Secretary of State by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On~~ *on* the date that it was received by the Secretary of State . ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

Sec. 35. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

4. Not later than the 15th day of the second month after the conclusion of all civil, criminal or administrative claims or proceedings for which a candidate or public officer established a legal defense fund, the candidate or public officer shall:

(a) Return the unspent money to contributors;

(b) Donate the money to any tax-exempt nonprofit entity; or

(c) Dispose of the money in any combination of the methods provided in paragraphs (a) and (b).

Sec. 36. NRS 294A.287 is hereby amended to read as follows:

294A.287 1. A person shall not make a contribution or contributions to the legal defense fund of a candidate or public officer in an amount which exceeds \$10,000. ~~[during the applicable period prescribed in NRS 294A.100 pertaining to the office the candidate is seeking or that the public officer holds.]~~

2. A candidate or public officer shall not accept a contribution to his legal defense fund that is made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 36.5. NRS 294A.300 is hereby amended to read as follows:

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.

2. ***A person shall not make or commit to make a contribution or commitment prohibited by subsection 1.***

3. This section does not prohibit the payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

~~3.~~ 4. As used in this section, “political purpose” includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.

Sec. 37. NRS 294A.347 is hereby amended to read as follows:

294A.347 1. A statement which:

(a) Is published within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate ~~[,]~~ or a ~~[person, party, committee or business entity required to report expenditures pursuant to NRS 294A.210,]~~ ***committee for political action,***

↪ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person ~~[, party, committee or business entity]~~ ***or committee for political action*** providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election; and

(b) Contains the name of the candidate,

↪ shall be deemed to comply with the provisions of this section.

3. As used in this section, “publish” means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 38. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year through

December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~or~~ **or subsection 4 of NRS 294A.286.**

2. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election;

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election; and

(c) July 15 of the year of the general city election for that office, for the period from 11 days before the general city election through the June 30 of that year.

3. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election; and

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election.

4. Except as otherwise provided in subsection 5, every candidate for city office at a special election shall so file those reports:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election.

5. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

Sec. 38.2. NRS 294A.362 is hereby amended to read as follows:

294A.362 1. In addition to reporting information pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360, each candidate who is required to file a report of campaign contributions and expenses pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360 shall report on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 goods and services provided in kind for which money would otherwise have been paid. The candidate shall list on the form each such campaign contribution in excess of \$100 that he receives during the reporting period, each such campaign contribution from a contributor received during the reporting period which cumulatively exceeds \$100, and each such expense in excess of \$100 he incurs during the reporting period.

2. The Secretary of State and each city clerk shall not require a candidate to list the campaign contributions and expenses described in this section on any form other than the form designed and provided by the Secretary of State pursuant to NRS 294A.373.

3. *The report of campaign contributions and expenses described in this section must be filed in the same manner and at the same time as the candidate files the reports required pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360.*

Sec. 39. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210 [~~294A.220,~~] **and** 294A.280 [~~and 294A.283~~] must consist of a list of each expenditure in excess of \$100 or \$1,000, as is appropriate, that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of \$100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

- (a) Office expenses;
- (b) Expenses related to volunteers;
- (c) Expenses related to travel;
- (d) Expenses related to advertising;
- (e) Expenses related to paid staff;
- (f) Expenses related to consultants;
- (g) Expenses related to polling;
- (h) Expenses related to special events;

(i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and

(j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160 ~~or subsection 4 of NRS 294A.286.~~

Sec. 40. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, ~~294A.150,~~ 294A.200, 294A.210, ~~294A.220,~~ 294A.270, 294A.280, ~~294A.283,~~ 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party, group and business entity that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party, group or business entity that is required to use the form.

Sec. 40.5. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design ~~a single form~~ **forms** to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The ~~form~~ **forms** designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. ~~Upon request, the~~ **The** Secretary of State shall provide ~~to each person, committee, political party, group and business entity that is required to file a report described in subsection 1:~~

(a) If the person, committee, political party, group or business entity is required to submit the report to a city clerk, a copy of the form ; ~~designed pursuant to this section to each person, committee, political party, group and business entity that is required to file a report described in subsection 1.~~

(b) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State, access through a secure website to the form; or

(c) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State and has submitted an affidavit to the Secretary of State pursuant to section 29.5 or 29.7 of this act, a copy of the form.

4. *If a person, committee, political party, group or business entity is required to submit electronically a report described in subsection 1, the form must be signed electronically under penalty of perjury.*

5. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of , *or access to*, a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party, group or business entity . ~~that is required to use the form.~~

6. *The Secretary of State may adopt any regulations necessary to carry out of the provisions of this section.*

Sec. 41. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy;
3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377;
4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or

5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, ~~294A.150,~~ 294A.200, 294A.210, ~~294A.220,~~ 294A.270, 294A.280 ~~294A.283~~ or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,

↪ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, ~~294A.150,~~ 294A.200, 294A.210, ~~294A.220,~~ 294A.270, 294A.280 ~~294A.283~~ or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420,

must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 41.5. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy; *or*
3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377, ~~;~~

4. ~~The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or~~

5. ~~The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286.]~~

↪ shall furnish the candidate *or entity* with ~~[the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An]~~ *an* explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 42. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280 ~~[- 294A.283]~~ and 294A.286, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Group of persons or business entity advocating the election or defeat of a candidate.

(c) **Person or group of persons who advocates the passage or defeat of a question or group of questions on a ballot.**

(d) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates.

(c) **A person or group of persons who advocates the passage or defeat of a question or group of questions on a ballot.**

6. ~~The contributions in excess of \$1,000 made to and the expenditures exceeding \$1,000 made by a:~~

~~(a) Person or group of persons organized formally or informally, including a business entity who advocates the passage or defeat of a question or group of questions on the ballot and who receives or expends money in an amount in excess of \$10,000 for such advocacy, except as otherwise provided in paragraph (b).~~

~~(b) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy.~~

~~7.] The total contributions received by and expenditures made from a legal defense fund.~~

Sec. 43. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, ~~[294A.150.]~~ 294A.200, 294A.210, ~~[294A.220.]~~ 294A.230, **294A.250**, 294A.270, 294A.280, ~~[294A.283.]~~ 294A.286, **294A.350**, 294A.360 or 294A.377 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128,

294A.130, 294A.140, ~~294A.150,~~ 294A.160, 294A.200, 294A.210, ~~294A.220,~~ 294A.230, **294A.250**, 294A.270, 294A.280, ~~294A.283,~~ 294A.286, 294A.300, 294A.310, **294A.350**, 294A.360 or 294A.377 is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 44. NRS 306.040 is hereby amended to read as follows:

306.040 1. Upon determining that the number of signatures on a petition to recall is sufficient pursuant to NRS 293.1276 to 293.1279, inclusive, the Secretary of State shall notify the county clerk, the officer with whom the petition is to be filed pursuant to subsection 4 of NRS 306.015 and the public officer who is the subject of the petition.

2. After the verification of signatures is complete ~~[-]~~ but not later than the date a complaint is filed pursuant to subsection 5 or the date the call for a special election is issued, whichever is earlier, a person who signs a petition to recall may request the Secretary of State to strike his name from the petition. If the person demonstrates good cause therefor and the number of such requests received by the Secretary of State could affect the sufficiency

of the petition, the Secretary of State shall strike the name of the person from the petition.

3. Not sooner than 10 days ~~nor~~ *or* more than 20 days after the Secretary of State completes the notification required by subsection 1, if a complaint is not filed pursuant to subsection 5, the officer with whom the petition is filed shall issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him.

4. The call for a special election pursuant to subsection 3 or 6 must include, without limitation:

(a) The last day on which a person may register to vote to qualify to vote in the special election; ~~and~~

(b) The last day on which a petition to nominate other candidates for the office may be filed ~~[-]~~; *and*

(c) *Whether any person is entitled to vote in the special election pursuant to 293.343 to 293.355, inclusive.*

5. The legal sufficiency of the petition may be challenged by filing a complaint in district court not later than 5 days, Saturdays, Sundays and holidays excluded, after the Secretary of State completes the notification required by subsection 1. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 30 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

6. Upon the conclusion of the hearing, if the court determines that the petition is sufficient, it shall order the officer with whom the petition is filed to issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him. If the court determines that the petition is not sufficient, it shall order the officer with whom the petition is filed to cease any further proceedings regarding the petition.

Sec. 44.1. Chapter 281A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A candidate or public officer who is required to file ~~(electronically)~~ a statement of financial disclosure with the Secretary of State pursuant to NRS 281A.600 or 281A.610 is not required to file the statement electronically if the candidate or public officer ~~(submits to)~~ has on file with the Secretary of State an affidavit stating that:

(a) The candidate or public officer does not own or have the ability to access the technology necessary to file electronically the statement of financial disclosure; and

(b) The candidate or public officer does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the statement of financial disclosure.

2. ~~Each~~ To excuse the electronic filing of the report, the affidavit submitted pursuant to ~~described in subsection 1 must be~~ ~~filed~~ ~~:~~

(a) In the form prescribed by the Secretary of State and signed under penalty of perjury.

(b) Except as otherwise provided in subsection 4, filed not less than 45 days before the statement is required to be filed.

3. A candidate or public officer that is excused from filing the statement electronically may file the statement by transmitting the statement by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted in one of these manners shall be deemed to be filed on the date that it was received by the Secretary of State.

4. To excuse the electronic filing of a report concerning a person who is appointed to fill the unexpired term of an elected or appointed public officer, the affidavit described in subsection 1 must be filed within 15 days after his appointment.

Sec. 44.15. NRS 281A.240 is hereby amended to read as follows:

281A.240 1. In addition to any other duties imposed upon him, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281A.440.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the panel appointed pursuant to NRS 281A.220 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that he considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that he is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of his duties relating to:

(a) The administration of the affairs of the Commission; and

(b) ~~The review of statements of financial disclosure; and~~

~~(c)~~ The investigation of matters under the jurisdiction of the Commission.

Sec. 44.2. NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt procedural regulations:

- (a) To facilitate the receipt of inquiries by the Commission;
- (b) For the filing of a request for an opinion with the Commission;
- (c) For the withdrawal of a request for an opinion by the person who filed the request; and
- (d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, ~~[forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281A.600 and]~~ forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. ~~[Except as otherwise provided in NRS 281A.600, inform]~~ **Inform** the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that contains:

- (a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;
- (b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and
- (c) An abstract of the requirements of this chapter.

↪ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.

Sec. 44.3. NRS 281A.470 is hereby amended to read as follows:

281A.470 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or

employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.

(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the ~~Commission~~ **Secretary of State** for review; and

(2) Upon review, approved by the ~~Commission~~ **Secretary of State**.

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 44.4. ~~NRS 281A.500 is hereby amended to read as follows:~~

~~281A.500 1. Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must accompany the first statement of financial disclosure that the public officer is required to file] **be filed** with the Commission [pursuant to NRS 281A.600 or the Secretary of State pursuant to NRS 281A.610.] **not later than 30 days after he takes office and on or before January 15 of each year thereafter.**~~

~~2. The Commission [and the Secretary of State] shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.~~

~~3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.] **(Deleted by amendment.)**~~

Sec. 44.5. NRS 281A.600 is hereby amended to read as follows:

281A.600 1. Except as otherwise provided in ~~subsection 2,~~ **subsections 2 and 3 and section 44.1 of this act**, if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, he shall file **electronically** with the ~~Commission~~ **Secretary of State** a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

↪ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. ~~¶The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

~~(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;~~

~~(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

~~(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

~~(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~6.] A statement of financial disclosure shall be deemed to be filed [with the Commission:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On] on the date that it was received by the [Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.] Secretary of State.~~

5. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 45. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in ~~subsection 2,~~ **subsections 2 and 4 and section 44.1 of this act**, each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which he is serving shall file **electronically** with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if he is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which he is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, he need not file the statement required by subsection 1 for the full calendar year for which he previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed ~~with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~
~~(b) On~~ **on** the date that it was received by the Secretary of State . ~~if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.~~

~~7. The]~~

6. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall ~~prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.] provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.~~

Sec. 45.2. NRS 281A.620 is hereby amended to read as follows:

281A.620 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such *electronic* form as the ~~[Commission]~~ **Secretary of State** otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as “professional services” must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial

interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. ~~The [Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.]~~ **Secretary of State may adopt any regulations necessary to carry out the provisions of this section.**

3. As used in this section:

(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

(b) "Household" includes:

(1) The spouse of a candidate for public office or public officer;

(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

(3) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 45.3. NRS 281A.630 is hereby amended to read as follows:

281A.630 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281A.600, 281A.610 and 281A.620 must be retained by the ~~[Commission or]~~ Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 45.4. NRS 281A.640 is hereby amended to read as follows:

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the ~~[Commission and to the]~~ Secretary of State, in a form prescribed by the ~~[Commission.]~~ **Secretary of State**, on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

- (b) Each city clerk for all public officers of the city;
- (c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and
- (d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. ~~The Secretary of State, each~~ **Each** county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the ~~Commission,~~ **Secretary of State**, and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the ~~Commission,~~ **Secretary of State**, a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 45.5. NRS 281A.650 is hereby amended to read as follows:

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate :

1. *If the candidate is a candidate for judicial office*, the form prescribed by the ~~Commission~~ **Administrative Office of the Courts** for the making of a statement of financial disclosure ~~is~~;

2. *If the candidate is not a candidate for judicial office and is required to file electronically the statement of financial disclosure, access to the electronic form prescribed by the Secretary of State; or*

3. *If the candidate is not a candidate for judicial office, is required to submit the statement of financial disclosure electronically and has submitted an affidavit to the Secretary of State pursuant to section 44.1 of this act, the form prescribed by the Secretary of State,*

~~is~~ accompanied by instructions on how to complete the form ~~is~~, where it must be filed and the time by which it must be filed.

Sec. 46. NRS 294A.150, 294A.220, 294A.281, 294A.282, 294A.283 and 294A.284 are hereby repealed.

Sec. 47. 1. This section and sections 1 to 29.3, inclusive, 30, 31, 32, 33, 34, 35 to 38, inclusive, 39, 40, 41, 42, 43, 44 and 46 of this act become effective on July 1, 2009.

2. Sections 29.5, ~~29.7,~~ 32.2 to 32.5, inclusive, 33.1, 33.2, 34.2, 34.3, 38.2, 40.5, 41.5 and 44.1 to 45.5, inclusive, of this act become effective on January 16, 2011.

LEADLINES OF REPEALED SECTIONS

294A.150 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or

expends money in excess of \$10,000 to report contributions received; period covered; form; filing.

294A.220 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or expends money in excess of \$10,000 to report expenditures; deadline; period covered; form; filing.

294A.281 Registration.

294A.282 Registered agent.

294A.283 Reporting of contributions and expenditures; period covered; deadline; form; filing.

294A.284 Reporting of certain information concerning compensation of persons to circulate petitions.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 82 and Senate Bill No. 114.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 82 and Senate Bill No. 114 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 245.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 902.

AN ACT relating to regional transportation commissions; reorganizing provisions governing regional transportation commissions; providing that regional transportation commissions may authorize vending stands; authorizing certain governmental entities to collect fees for placing street banners within rights-of-way and public easements; authorizing certain regional transportation commissions to enter into certain hedge contracts for fuel; ~~providing tort immunity to regional transportation commissions under certain circumstances;~~ making various other changes to provisions relating to regional transportation commissions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Nevada has enacted the County Motor Vehicle Fuel Tax Law which, in part, authorizes certain counties to create regional transportation commissions and impose certain taxes on fuel. (Chapter 373 of NRS) **Sections 2-41 and 64** of this bill reorganize the provisions relating to regional transportation commissions into chapter 277 of NRS to be known as the Regional Transportation Commission Act.

Sections 17 and 31 of this bill authorize the regional transportation commission in a county with a population of 400,000 or more (currently Clark County) to construct, install and maintain vending stands in a building, terminal or parking facility owned, operated or leased by the commission. Such vending stands may provide any approved articles, food or beverages to passengers of public mass transportation within the county.

Sections 15 and 28 of this bill authorize regional transportation commissions, under certain circumstances, to place street banners along public highways and within rights-of-way and public easements. Fees collected for placing street banners must be given to the governmental entities that own or control the public easements or rights-of-way where the street banners are placed, less an administrative fee given to the commissions to fund road repair and maintenance.

Section 34 of this bill authorizes a regional transportation commission to construct, modify, operate and maintain certain electrical and communications systems.

Section 38 of this bill authorizes a regional transportation commission that budgets \$1,000,000 or more in a fiscal year for the purchase of fuel to enter into a fuel hedge contract under certain circumstances.

Section 55 of this bill requires the governing body of each city that participates in a regional transportation commission to approve the dissolution of the commission, in addition to the governing body of the county. (NRS 373.120)

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

Section 1. Chapter 277 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this act.

Sec. 2. *Sections 2 to 41, inclusive, of this act may be known and cited as the Regional Transportation Commission Act.*

Sec. 3. *As used in sections 2 to 41, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 17, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Acquire" or "acquisition" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the United States of America, any agency, instrumentality or corporation thereof, the State of Nevada, any body corporate and politic therein, any corporation, or any person, the*

endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract, or other acquirement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act.

Sec. 5. *"Board" means the board of county commissioners.*

Sec. 6. *"City" means an incorporated city.*

Sec. 7. *"Commission" means a regional transportation commission created pursuant to section 18 of this act.*

Sec. 8. *"Cost of the project," or any phrase of similar import, means all or any part designated by the board of the cost of any project, or interest therein, being acquired, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county from money available for use therefor or any other source, or advanced by any city with the approval of the county from money available therefor or from any other source, or advanced by the State of Nevada or the Federal Government, or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding 1 year and of any reserves for the payment of the principal of an interest on the bonds, the filing or recordation of instruments, the costs of medium-term obligations, construction loans and other temporary loans not exceeding 10 years appertaining to the project and of the incidental expenses incurred in connection with such financing or loans, and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board.*

Sec. 9. *"Department" means the Department of Motor Vehicles.*

Sec. 10. *"Fixed guideway" means a mass transportation facility which uses and occupies a separate right-of-way or rails exclusively for public transportation, including, without limitation, fixed rail, automated guideway transit and exclusive facilities for buses.*

Sec. 11. *"Improve" or "improvement" means the extension, widening, lengthening, betterment, alteration, reconstruction, surfacing, resurfacing or other major improvement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act. The term includes renovation, reconditioning, patching, general maintenance and other minor repairs.*

Sec. 12. *"Project" means:*

1. *In a county whose population is 100,000 or more, street and highway construction, including, without limitation, the acquisition and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition and improvement of all types of property therefor.*

2. *In a county whose population is less than 100,000, street and highway construction, maintenance or repair, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of all types of property therefor.*

Sec. 13. *"Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.*

Sec. 14. *"Public transit system" means a system employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.*

Sec. 15. *"Street banner" means a sign which a commission has authorized pursuant to section 28 of this act to be hung:*

(a) Along any street, avenue, boulevard, alley, public highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, within the jurisdiction of the commission.

(b) On any facility owned or leased by the commission, the county or any participating city.

Sec. 16. *"Town" means an unincorporated town.*

Sec. 17. *"Vending stand" means:*

1. *Such buildings, counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment as are necessary or customarily used for the vending of such articles or the provision of such services as may be approved by the commission and the governing body having care, custody and control of the property on which the vending stand is located;*

2. *Manual or coin-operated vending machines or similar devices for vending such articles, operated at buildings, terminals and parking facilities owned or leased by the commission, even though no person is physically present on the premises except to service the machines;*

3. *A snack bar for the dispensing of foodstuffs and beverages; or*

4. *Portable shelters which can be disassembled and reassembled, and the equipment therein, used for the vending of approved articles, foodstuffs or beverages or the provision of approved services.*

Sec. 18. *In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance create a regional transportation commission.*

Sec. 19. 1. *In counties whose population is 100,000 or more, the commission must be composed of representatives selected by the following entities from among their members:*

(a) *Two by the board.*

(b) *Two by the governing body of the largest city in the county.*

(c) *One by the governing body of each additional city in the county.*

2. *In counties whose population is less than 100,000, the commission must be composed of representatives selected as follows:*

(a) *If the county contains three or more cities:*

(1) *Two by the board.*

(2) *One by the governing body of the largest city.*

(b) *If the county contains only two cities:*

(1) *Three by the board, at least one of whom is a representative of the public who is a resident of the county.*

(2) *One by the governing body of each city in the county.*

(c) *If the county contains only one city:*

(1) *Two by the board.*

(2) *One by the governing body of the city.*

(d) *If the county contains no city, the board shall select:*

(1) *Two members of the board; and*

(2) *One representative of the public, who is a resident of the largest town, if any, in the county.*

3. *In Carson City, the commission must be composed of representatives selected by the Board of Supervisors as follows:*

(a) *Two members of the Board of Supervisors, one of whom must be designated by the commission to serve as chairman of the commission.*

(b) *Three representatives of the city at large.*

4. *The first representatives must be selected within 30 days after passage of the ordinance creating the commission, and, except as otherwise provided in subsections 5, 6 and 7, must serve until the next ensuing December 31 of an even-numbered year. The representative of any city incorporated after passage of the ordinance must be selected within 30 days after the first meeting of the governing body, and, except as otherwise provided in subsection 7, must serve until the next ensuing December 31 of an even-numbered year. Their successors must serve for terms of 2 years, and vacancies must be filled for the unexpired term.*

5. *In Carson City:*

(a) *One representative of the commission who is a member of the Board of Supervisors and one representative of the commission who is a representative of the city at large must serve until the next ensuing December 31 of an even-numbered year; and*

(b) *One representative of the commission who is a member of the Board of Supervisors and two representatives of the commission who are representatives of the city at large must serve until the next ensuing December 31 of an odd-numbered year.*

6. *In counties whose population is 100,000 or more, but less than 400,000:*

(a) *One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an even-numbered year; and*

(b) *One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an odd-numbered year.*

7. *In counties whose population is 400,000 or more, the first representatives and the representative of any city incorporated after passage of the ordinance must serve until the next ensuing June 30 of an odd-numbered year.*

Sec. 20. *The commission shall provide for its organization and meetings.*

Sec. 21. 1. *A commission may be designated as a metropolitan planning organization pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.*

2. *If a commission is designated as a metropolitan planning organization, the commission shall carry out the duties prescribed by federal law for a metropolitan planning organization in addition to any other duties required by specific statute.*

Sec. 22. 1. *In any county in which a commission has been created by ordinance, the commission may:*

(a) *Receive and disburse federal funds;*

(b) *Submit project applications and programs of projects to federal agencies;*

(c) *Enter into formal agreements concerning projects with federal agencies; and*

(d) Conduct public hearings and certify that such hearings were conducted.

2. If a commission receives federal funds for any project, the commission shall comply with any applicable federal law in relation to providing goods or services related to such project.

Sec. 23. The commission may establish a fund consisting of contributions from private sources, the State or the county and cities and towns within the jurisdiction of the commission for the purpose of matching federal money from any federal source.

Sec. 24. A commission may:

1. Acquire and own both real and personal property.

2. Exercise the power of eminent domain, if the city or county which has jurisdiction over the property approves, for the acquisition, construction, repair or maintenance of public roads, or for any other purpose related to public mass transportation.

3. Sell, lease or convey or otherwise dispose of rights, interests or properties.

4. Adopt regulations for:

(a) Financing eligible activities; and

(b) The operation of systems or services provided by the commission.

Sec. 25. A commission may:

1. Sue and be sued.

2. Prepare and approve budgets for the regional street and highway fund, the public transit fund and money it receives from any source.

3. Adopt bylaws for the administration of its affairs and rules for the administration and operation of facilities under its control.

4. Conduct studies, develop plans and conduct public hearings to establish and approve short-range and regional plans for transportation.

5. Purchase insurance or establish a reserve or fund for self-insurance, or adopt any combination of these, to insure against loss by reason of:

(a) Damages resulting from fire, theft, accident or other casualty; or

(b) The commission's liability for other damages to persons or property which occur in the construction or operation of facilities or equipment under its control or in the conduct of its activities.

Sec. 26. A commission may:

1. Provide for and maintain such security in operations as is necessary for the protection of persons and property under its jurisdiction and control.

2. Employ professional, technical, clerical and other personnel necessary to carry out the provisions of sections 2 to 41, inclusive, of this act.

3. Establish a fine for a passenger who refuses to pay or otherwise fails to pay the proper fare to ride on the public transit system established and operated by the commission. If the commission establishes such a fine, the

commission may establish procedures that provide for the issuance and collection of the fine.

Sec. 27. 1. *A commission may:*

(a) Operate a system of public transportation to the exclusion of any other publicly owned system of transportation within its area of jurisdiction.

(b) Use streets, roads, highways and other public rights-of-way for public transportation.

(c) Enter into agreements for the joint use of facilities, installations and properties and the joint exercise of statutory powers.

(d) Prohibit the use of any facility, installation or property owned, operated or leased by the commission, including, without limitation, a transit stop or bus turnout, by any person other than the commission or its agents.

(e) Enter into contracts, leases and agreements with and accept grants and loans from federal and state agencies, counties, cities, towns, other political subdivisions, public or private corporations and other persons, and may perform all acts necessary for the full exercise of the powers vested in the commission.

2. *The powers and duties of a commission set forth in sections 2 to 41, inclusive, of this act, do not apply to any monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695.*

3. *As used in this section, “bus turnout” means a fixed area that is:*

(a) Adjacent or appurtenant to, or within a reasonable proximity of, a public highway; and

(b) To be occupied exclusively by buses in receiving or discharging passengers.

Sec. 28. 1. *A commission may authorize street banners to be placed within the jurisdiction of the commission:*

(a) Along any public highway.

(b) Except as otherwise provided in subsections 2 and 3, on a facility owned or leased by the commission, the county or any participating city, or within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(1) The facility, public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(2) The street banners may be located safely on the facility or within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. *If the commission and the governmental entity that owns or controls a facility, public easement or right-of-way execute an interlocal or*

cooperative agreement that authorizes the placement of street banners, the commission may place street banners on the facility or within the public easement or right-of-way.

3. If the commission or any person authorized by the commission intends to place any street banner within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to place the street banner within the public easement at least 30 days before such placement; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the street banner within the public easement.

4. A commission may charge a fee to place a street banner. Any such fee collected by the commission must be paid to the governmental entity that owns or controls the facility, public easement or right-of-way where the street banner is placed. The governmental entity shall pay to the commission an administrative fee in an amount set forth in the agreement required pursuant to subsection 2. Any administrative fee paid to the commission pursuant to this subsection must be used by the commission to fund road improvement and maintenance.

Sec. 29. 1. A commission, a county whose population is less than 100,000 or a city within such a county may establish or operate a public transit system consisting of:

(a) Regular routes and fixed schedules to serve the public;

(b) Nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170, if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or a city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

2. A commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

(a) Minor deviations from the regular routes and fixed schedules required by paragraph (a) of subsection 1 on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons other than those specified in paragraph (b), (c) or (d) of subsection 1 upon request without regard to regular routes or fixed schedules, if the service is provided by a common motor carrier

which has a certificate of public convenience and necessity issued by the Nevada Transportation Authority pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the Nevada Transportation Authority for a fully regulated carrier.

4. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a commission may utilize a turnkey procurement process to select a person to design, build, operate and maintain, or any combination thereof, a fixed guideway system, including, without limitation, any minimum operable segment thereof. The commission shall determine whether to utilize turnkey procurement for a fixed guideway project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall evaluate whether turnkey procurement is the most cost-effective method of constructing the project on schedule and in satisfaction of its transportation objectives.

5. Notwithstanding the provisions of chapter 332 of NRS, a commission may utilize a competitive negotiation procurement process to procure rolling stock for a fixed guideway project, rolling stock for a public transit system, facilities and any other equipment that is related to public transportation. The award of a contract under such a process must be made to the person whose proposal is determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

6. If a commission develops a fixed guideway project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway systems set forth in 49 C.F.R. Part 659.

7. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Nevada Transportation Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Nevada Transportation Authority.

(b) "Minimum operable segment" means the shortest portion of a fixed guideway system that is technically capable of providing viable public transportation between two end points.

(c) "Turnkey procurement" means a competitive procurement process by which a person is selected by a commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a fixed guideway system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.

Sec. 30. 1. A commission may construct, convert, improve, equip and maintain parking facilities or parking spaces for use by the general public and public employees. Such facilities or spaces must be owned and operated by the commission or its agents.

2. *The commission may fix and charge reasonable fees for the use of any such parking facilities or spaces.*

3. *The commission may enter into a contract, lease or other arrangement to provide exclusive parking in designated spaces at any parking facility owned, leased or operated by the commission.*

Sec. 31. 1. *In a county whose population is 400,000 or more, the commission may provide for the construction, installation and maintenance of vending stands for passengers of public mass transportation in any building, terminal or parking facility owned, operated or leased by the commission.*

2. *The provisions of NRS 426.630 to 426.720, inclusive, do not apply to a vending stand constructed, installed or maintained pursuant to this section.*

Sec. 32. *In a county whose population is 400,000 or more:*

1. *The commission shall provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.*

2. *In carrying out its duties pursuant to subsection 1, the commission may displace or limit competition in the construction, installation and maintenance of such benches, shelters and transit stops. The commission may:*

(a) *Provide those services on an exclusive basis or adopt a regulatory scheme for controlling the provision of those services; or*

(b) *Grant an exclusive franchise to any person to provide those services.*

3. *Subject to the provisions of subsections 4 and 5, the commission or any person who is authorized by the commission to provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation may locate such benches, shelters and transit stops within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:*

(a) *The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and*

(b) *The benches, shelters and transit stops may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.*

4. *Before the commission or any person authorized by the commission may construct or install any benches, shelters and transit stops within any public easement or right-of-way, the commission and the governmental entity that owns or controls the public easement or right-of-way shall execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the benches, shelters and transit stops within the public easement or right-of-way.*

5. *If the commission or any person authorized by the commission intends to construct or install any benches, shelters or transit stops within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:*

(a) Provide the governing body of the association with written notice of the intent to construct or install the benches, shelters or transit stops within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the benches, shelters or transit stops within the public easement.

6. *The commission shall post on each bench, within each shelter and near each transit stop a notice that provides a telephone number that a person may use to report damage to the benches, shelters or transit stops.*

7. *No board, governing body or town board may:*

(a) Provide for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation except with the approval of or at the request of the commission; or

(b) Adopt any ordinance, regulation or plan, enter into or approve any franchise, contract or agreement or take any other action that prohibits or unreasonably restricts the commission from providing for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation.

Sec. 33. 1. *In a county whose population is 400,000 or more, the commission shall establish an advisory committee to provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county. The membership of the advisory committee must consist of:*

(a) Two members of the general public from each city within the county who are appointed by the governing body of that city; and

(b) Six members of the general public appointed by the commission.

2. *Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.*

3. *A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.*

4. *The advisory committee shall meet at least six times annually.*

5. *At its first meeting and annually thereafter, the advisory committee shall elect a chairman and vice chairman from among its members.*

6. *Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.*

Sec. 34. 1. *Subject to the provisions of subsections 2, 4 and 5, the commission may construct, modify, operate and maintain electrical and communication systems, including, without limitation, traffic signalization or messaging systems, and related infrastructure that are necessary to carry out the commission's duties set forth in sections 2 to 41, inclusive, of this act within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:*

(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(b) The electrical and communication systems and related infrastructure may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. *If the commission and the governmental entity that owns or controls a public easement or right-of-way execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the electrical and communication systems and related infrastructure within the public easement or right-of-way, the commission or any person authorized by the commission may construct or install any electrical and communication systems and related infrastructure within the public easement or right-of-way.*

3. *If the commission or any person authorized by the commission intends to construct or install any electrical or communication systems or related infrastructure within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:*

(a) Provide the governing body of the association with written notice of the intent to construct or install the electrical or communication systems or related infrastructure within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the electrical or communication systems or related infrastructure within the public easement.

4. *The commission may require any person who causes damage to an electrical or communication system or related infrastructure to:*

(a) Reimburse the commission for the cost of repairing the damage to the electrical or communication system or related infrastructure; or

(b) Repair the damage to the electrical or communication system or related infrastructure to the satisfaction of the commission.

5. *A commission that modifies, operates and maintains electrical and communication systems pursuant to this section is not a public utility and nothing in this section authorizes a commission to construct or maintain*

any telecommunications system, including, without limitation, a tower, pole or similar structure used to provide telecommunications services.

Sec. 35. 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to section 25 of this act may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of sections 2 to 41, inclusive, of this act, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board may, after the enactment of an ordinance as authorized by NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, issue revenue bonds and other revenue securities, on the behalf and in the name of the county:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065;

(b) Which must not be general obligations of the county or a charge on any real estate therein; and

(c) Which may be secured as to principal and interest by a pledge authorized by chapter 373 of NRS of the receipts from the motor vehicle fuel taxes designated in chapter 373 of NRS, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county is authorized to issue bonds without the necessity of their being authorized at any election in such manner and with such terms as provided in sections 2 to 41, inclusive, of this act.

4. Subject to the provisions of sections 2 to 41, inclusive, of this act, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county securities, and in connection with the undertaking or project, the board may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the motor vehicle fuel taxes designated in chapter 373 of NRS except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. *Except for:*

- (a) *Any notes or warrants which are funded with the proceeds of interim debentures or bonds;*
- (b) *Any interim debentures which are funded with the proceeds of bonds;*
- (c) *Any temporary bonds which are exchanged for definitive bonds;*
- (d) *Any bonds which are reissued or which are refunded; and*
- (e) *The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act,*

↪ all bonds and other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act must be payable solely from the proceeds of motor vehicle fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by chapter 373 of NRS. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to paragraphs (a) and (b) of subsection 1 of NRS 373.065 may be used by the county for the payment of securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act and may be pledged therefor. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance authorizing their issuance and any other instrument appertaining to the securities.

7. *The ordinance authorizing the issuance of any bond or other revenue security hereunder must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified.*

Sec. 36. *In counties having a population of less than 100,000, the commission shall submit an annual report to the Department for the fiscal year showing the amount of receipts from the county motor vehicle fuel tax imposed pursuant to chapter 373 of NRS and the nature of the expenditures for each project.*

Sec. 37. 1. *In a county whose population is 400,000 or more, the commission shall cooperate with the local air pollution control board and the regional planning coalition in the county in which it is located to:*

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) Establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. *Before adopting or amending a plan, policy or program, the commission must:*

(a) Consult with the local air pollution control board and the regional planning coalition; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional planning coalition; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. *As used in this section:*

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional planning coalition" has the meaning ascribed to it in NRS 278.0172.

Sec. 38. 1. *A commission that budgets \$1,000,000 or more in any fiscal year for the purchase of fuel may enter into an agreement for an exchange of cash flow based on the price of fuel as provided in this section if it finds that such an agreement would be in the best interest of the commission.*

2. *A commission may only enter into an agreement to exchange cash flows payments based on the price of fuel only if:*

(a) The long-term unsecured debt obligations of the person with whom the commission enters the agreement are rated "A" or better by a nationally recognized rating agency; or

(b) The obligations pursuant to the agreement of the person with whom the Commission enters the agreement are guaranteed by a person whose long-term debt obligations are rated "A" or better by a nationally recognized rating agency.

3. *A commission may agree, with respect to a fuel that the commission has budgeted to purchase in a fiscal year:*

(a) To pay sums based on a fixed price or prices for that fuel, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects to acquire over a period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a variable price for that fuel

determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the sums payable by the commission;

(b) To pay sums based on a variable price or prices for that fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of fuel that does not exceed the amount of the fuel the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a fixed price or prices for that fuel on the same amount of fuel as the amount used in determining the sums payable by the commission; or

(c) To pay sums based on a variable price or prices for the fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a different variable price for that fuel determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the amount payable by the commission.

4. The payments to be made for any fiscal year must be based on the amounts of the fuel that the commission expects to buy or sell during that fiscal year and must be scheduled to be paid within an 18-month period that begins 3 months before and ends 3 months after the fiscal year.

5. A certification by the commission or its chief financial officer as to any determination made under this section or as to the amount of fuel that a commission expects to buy or sell during the term of an agreement entered into pursuant to this section, or during all or any part of any fiscal year that is wholly or partially included in the term of an agreement entered into pursuant to this section, is conclusive, absent fraud, for the purpose of determining whether the commission is authorized to enter into an agreement under this section.

6. The term of an agreement entered into pursuant to this section may not exceed 63 months.

7. An agreement entered into pursuant to this section is not:

(a) A debt or indebtedness of the commission for the purposes of any limitation upon the indebtedness of the commission or any requirement for an election with regard to the issuance of securities that is applicable to the commission.

(b) Subject to the limitations of subsection 1 of NRS 354.626.

8. A commission which has entered into an agreement pursuant to this section may treat the price it pays or expects to pay for fuel after giving effect to the agreement for the purpose of calculating:

(a) Rates and charges of a revenue-producing enterprise whose revenues are pledged to or used to pay municipal securities;

(b) Statutory requirements concerning revenue coverage that are applicable to municipal securities; and

(c) Any other amounts which are based upon the amounts to be paid for fuel.

9. Subject to covenants applicable to municipal securities to which any revenues of the commission or county are pledged, any payments required to be made by the commission under an agreement may be made from money that could be used to pay for the fuel or from any other legally available source.

10. The powers granted by this section are in addition to all other powers of any commission, and nothing herein limits the exercise of a power a commission otherwise has.

Sec. 39. (Deleted by amendment.)

Sec. 40. *In addition to the general and special powers conferred by sections 2 to 41, inclusive, of this act, a commission is authorized to exercise such powers as are necessary.*

Sec. 41. *Sections 2 to 41, inclusive, of this act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this State and other states and of the government of the United States having to do with the subject of transportation.*

Sec. 42. NRS 244.187 is hereby amended to read as follows:

244.187 A board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the county and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that county by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that county by an agency of the State.
6. Concessions on, over or under property owned or leased by the county.
7. Operation of landfills.
8. Except as otherwise provided in ~~NRS 373.1183,~~ *section 32 of this act*, construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 43. NRS 268.081 is hereby amended to read as follows:

268.081 The governing body of an incorporated city may, to provide adequate, economical and efficient services to the inhabitants of the city and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that city by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that city by an agency of the State.
6. Concessions on, over or under property owned or leased by the city.
7. Operation of landfills.
8. Search and rescue.
9. Inspection required by any city ordinance otherwise authorized by law.
10. Except as otherwise provided in ~~[NRS 373.1183,]~~ **section 32 of this act**, construction and maintenance of benches and shelters for passengers of public mass transportation.

11. Any other service demanded by the inhabitants of the city which the city itself is otherwise authorized by law to provide.

Sec. 44. NRS 269.128 is hereby amended to read as follows:

269.128 A town board or board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the town and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that town by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that town by an agency of the State.
6. Concessions on, over or under property owned or leased by the town.
7. Operation of landfills.
8. Except as otherwise provided in ~~[NRS 373.1183,]~~ **section 32 of this act**, construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 45. NRS 278.02584 is hereby amended to read as follows:

278.02584 1. The regional planning coalition shall cooperate with the local air pollution control board and the regional transportation commission in the county in which it is located to:

- (a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) In addition to the comprehensive regional policy plan required by NRS 278.02528, establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, the regional planning coalition shall:

(a) Consult with the local air pollution control board and the regional transportation commission; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional transportation commission; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. If the program for control of air pollution established and administered by the local air pollution control board includes measures for the control of traffic or transportation, the regional planning coalition shall consider recommending the use of alternative land use designations, densities and design standards to meet local and regional needs with respect to transportation.

4. Not more than once every 2 years, the regional planning coalition shall:

(a) Prepare a report that summarizes the policies related to land use, transportation and air quality which it has adopted and which the local air pollution control board and the regional transportation commission have adopted; and

(b) Submit a copy of the report to the:

(1) County clerk of the appropriate county;

(2) Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(3) Division of State Lands of the State Department of Conservation and Natural Resources; and

(4) Department of Transportation.

5. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional transportation commission" means a regional transportation commission created and organized in accordance with ~~chapter 373 of NRS.~~ **sections 2 to 41, inclusive, of this act.**

Sec. 46. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts

appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, is guilty of a misdemeanor, and upon conviction thereof ceases to hold his office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

↪ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal

year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

(l) An agreement authorized pursuant to section 38 of this act.

Sec. 47. NRS 365.545 is hereby amended to read as follows:

365.545 1. The proceeds of all taxes on fuel for jet or turbine-powered aircraft imposed pursuant to the provisions of NRS 365.170 or 365.203 must be deposited in the Account for Taxes on Fuel for Jet or Turbine-Powered Aircraft in the State General Fund and must be allocated monthly by the Department to the:

(a) Governmental entity which operates the airport at which the tax was collected, if the airport is operated by a governmental entity;

(b) Governmental entity which owns the airport at which the tax was collected, if the airport is owned but not operated by a governmental entity;

or

(c) County in which is located the airport at which the tax was collected, if the airport is neither owned nor operated by a governmental entity.

2. Except as otherwise provided in subsection 3, the money allocated pursuant to subsection 1:

(a) Must be used by the governmental entity receiving it to pay the cost of:

(1) Transportation projects related to airports, including access on the ground to airports;

(2) The payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1);

(3) Promoting the use of an airport located in a county whose population is less than 400,000, including, without limitation, increasing the number and availability of flights at the airport;

(4) Contributing money to the Trust Fund for Aviation created by NRS 494.048; or

(5) Any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued to fund projects described in paragraph (a). Any money pledged

pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

3. Any money allocated pursuant to subsection 1 to a county whose population is 400,000 or more and in which a regional transportation commission has been created pursuant to ~~[chapter 373 of NRS,]~~ **sections 2 to 41, inclusive, of this act**, from the proceeds of the tax imposed pursuant to paragraph (a) of subsection 2 of NRS 365.170 on fuel for jet or turbine-powered aircraft sold, distributed or used in that county, excluding the proceeds of any tax imposed pursuant to NRS 365.203, may, in addition to the uses authorized pursuant to subsection 2, be allocated by the county to that regional transportation commission. The money allocated pursuant to this subsection to a regional transportation commission:

(a) Must be used by the regional transportation commission:

(1) To pay the cost of transportation projects described in a regional plan for transportation established by that regional transportation commission pursuant to ~~[NRS 373.1161,]~~ **section 25 of this act;**

(2) For the payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1); or

(3) For any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued by the county at the request of the regional transportation commission to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 48. NRS 365.550 is hereby amended to read as follows:

365.550 1. Except as otherwise provided in subsection 2, the receipts of the tax levied pursuant to NRS 365.180 must be allocated monthly by the Department to the counties using the following formula:

(a) Determine the average monthly amount each county received in the Fiscal Year ending on June 30, 2003, and allocate to each county that amount, or if the total amount to be allocated is less than that amount, allocate to each county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003;

(b) If the total amount to be allocated is greater than the average monthly amount all counties received in the Fiscal Year ending on June 30, 2003, determine for each county an amount from the total amount to be allocated using the following formula:

(1) Multiply the county's percentage share of the total state population by 2;

(2) Add the percentage determined pursuant to subparagraph (1) to the county's percentage share of total mileage of improved roads or streets maintained by the county or an incorporated city located within the county;

(3) Divide the sum of the percentages determined pursuant to subparagraph (2) by 3; and

(4) Multiply the total amount to be allocated by the percentage determined pursuant to subparagraph (3);

(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (a) from the amount determined pursuant to paragraph (b); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(d) Identify each county for which the amount determined pursuant to paragraph (b) is less than or equal to the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(e) Subtract the amount determined pursuant to subparagraph (2) of paragraph (d) from the amount determined pursuant to subparagraph (2) of paragraph (c);

(f) Divide the amount determined pursuant to subparagraph (1) of paragraph (c) for each county by the sum determined pursuant to subparagraph (2) of paragraph (c) for all counties to determine each county's percentage share of the sum determined pursuant to subparagraph (2) of paragraph (c); and

(g) In addition to the allocation made pursuant to paragraph (a), allocate to each county that is identified pursuant to paragraph (c) a percentage of the total amount determined pursuant to paragraph (e) that is equal to the percentage determined pursuant to paragraph (f).

2. At the end of each fiscal year, the Department shall:

(a) Determine the total amount to be allocated to all counties pursuant to subsection 1 for the current fiscal year; and

(b) Use the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to each county an amount determined pursuant to subsection 3.

3. If the total amount to be allocated to all the counties determined pursuant to paragraph (a) of subsection 2:

(a) Does not exceed the total amount that was received by all the counties for the Fiscal Year ending on June 30, 2003, the Department shall adjust the final monthly allocation to be made to each county so that each county is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003.

(b) Exceeds the total amount that was received by all counties for the Fiscal Year ending on June 30, 2003, the Department shall:

(1) Identify the total amount allocated to each county for the Fiscal Year ending on June 30, 2003, and the total amount for the current fiscal year determined pursuant to paragraph (a) of subsection 2;

(2) Apply the formula set forth in paragraph (b) of subsection 1 using the amounts in subparagraph (1), instead of the monthly amounts, to determine the total allocations to be made to the counties for the current fiscal year; and

(3) Adjust the final monthly allocation to be made to each county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to subparagraph (2).

4. Of the money allocated to each county pursuant to the provisions of subsections 1, 2 and 3:

(a) An amount equal to that part of the allocation which represents 1.25 cents of the tax per gallon must be used exclusively for the service and redemption of revenue bonds issued pursuant to ~~chapter 373 of NRS,~~ **section 35 of this act**, for the construction, maintenance and repair of county roads, and for the purchase of equipment for that construction, maintenance and repair, under the direction of the boards of county commissioners of the several counties, and must not be used to defray expenses of administration.

(b) An amount equal to that part of the allocation which represents 2.35 cents of the tax per gallon must be allocated to the county, if there are no incorporated cities in the county, or, if there is at least one incorporated city in the county, allocated monthly by the Department to the county and each incorporated city in the county using, except as otherwise provided in paragraph (c), the following formula:

(1) Determine the average monthly amount the county and each incorporated city in the county received in the fiscal year ending on June 30, 2005, and allocate to the county and each incorporated city in the county that amount, or if the total amount to be allocated is less than that amount, allocate to the county and each incorporated city in the county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) If the total amount to be allocated is greater than the average monthly amount the county and all incorporated cities within the county received in the fiscal year ending on June 30, 2005, determine for the county and each incorporated city in the county an amount from the total amount to be allocated using the following formula:

(I) One-fourth in proportion to total area.

(II) One-fourth in proportion to population.

(III) One-fourth in proportion to the total mileage of improved roads and streets maintained by the county or incorporated city in the county, as applicable.

(IV) One-fourth in proportion to vehicle miles of travel on improved roads and streets maintained by the county or incorporated city in the county, as applicable.

↳ For the purpose of applying the formula, the area of the county excludes the area included in any incorporated city.

(3) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was greater than the amount allocated to the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (1) from the amount determined pursuant to subparagraph (2); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(4) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was less than or equal to the amount determined for the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (2) from the amount determined pursuant to subparagraph (1); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(5) Subtract the amount determined pursuant to sub-subparagraph (II) of subparagraph (4) from the amount determined pursuant to sub-subparagraph (II) of subparagraph (3).

(6) Divide the amount determined pursuant to sub-subparagraph (I) of subparagraph (3) for the county and each incorporated city in the county by the sum determined pursuant to sub-subparagraph (II) of subparagraph (3) for the county and all incorporated cities in the county to determine the county's and each incorporated city's percentage share of the sum determined pursuant to sub-subparagraph (II) of subparagraph (3).

(7) In addition to the allocation made pursuant to subparagraph (1), allocate to the county and each incorporated city in the county that is identified pursuant to subparagraph (3) a percentage of the total amount determined pursuant to subparagraph (5) that is equal to the percentage determined pursuant to subparagraph (6).

(c) At the end of each fiscal year, the Department shall:

(1) Determine the total amount to be allocated to a county and each incorporated city within the county pursuant to paragraph (b) for the current fiscal year; and

(2) Use the amount equal to that part of the allocation which represents 2.35 cents per gallon of the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to a county and each incorporated city in the county an amount determined pursuant to paragraph (d).

(d) If the total amount to be allocated to a county and all incorporated cities in the county determined pursuant to subparagraph (1) of paragraph (c):

(1) Does not exceed the total amount that was received by the county and all the incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall adjust the final monthly amount allocated to the county and each incorporated city in the county so that the county and each incorporated city is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) Exceeds the total amount that was received by the county and all incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall:

(I) Identify the total amount allocated to the county and each incorporated city in the county for the fiscal year ending on June 30, 2005, and the total amount for the current fiscal year determined pursuant to subparagraph (1) of paragraph (c);

(II) Apply the formula set forth in subparagraph (2) of paragraph (b) using the amounts in sub-subparagraph (I), instead of the monthly amounts, to determine the total allocations to be made to the county and the incorporated cities in the county for the current fiscal year; and

(III) Adjust the final monthly allocation to be made to the county and each incorporated city in the county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to sub-subparagraph (II).

5. The amount allocated to the counties and incorporated cities pursuant to subsections 1 to 4, inclusive, must be remitted monthly. The State Controller shall draw his warrants payable to the county treasurer of each of the several counties and the city treasurer of each of the several incorporated cities, as applicable, and the State Treasurer shall pay the warrants out of the proceeds of the tax levied pursuant to NRS 365.180.

6. The formula computations must be made as of July 1 of each year by the Department of Motor Vehicles, based on estimates which must be furnished by the Department of Transportation and, if applicable, any adjustments to the estimates determined to be appropriate by the Committee pursuant to subsection 10. Except as otherwise provided in subsection 10, the determination made by the Department of Motor Vehicles is conclusive.

7. The Department of Transportation shall complete:

(a) The estimates of the total mileage of improved roads or streets maintained by each county and incorporated city on or before August 31 of each year.

(b) A physical audit of the information submitted by each county and incorporated city pursuant to subsection 8 at least once every 10 years.

8. Each county and incorporated city shall, not later than March 1 of each year, submit a list to the Department of Transportation setting forth:

(a) Each improved road or street that is maintained by the county or city; and

(b) The beginning and ending points and the total mileage of each of those improved roads or streets.

↪ Each county and incorporated city shall, at least 10 days before the list is submitted to the Department of Transportation, hold a public hearing to identify and determine the improved roads and streets maintained by the county or city.

9. If a county or incorporated city does not agree with the estimates prepared by the Department of Transportation pursuant to subsection 7, the county or incorporated city may request that the Committee examine the estimates and recommend an adjustment to the estimates. Such a request must be submitted to the Committee not later than October 15.

10. The Committee shall hold a public hearing and review any request it receives pursuant to subsection 9 and determine whether an adjustment to the estimates is appropriate on or before December 31 of the year it receives a request pursuant to subsection 9. Any determination made by the Committee pursuant to this subsection is conclusive.

11. The Committee shall monitor the fiscal impact of the formula set forth in this section on counties and incorporated cities. Biennially, the Committee shall prepare a report concerning its findings and recommendations regarding that fiscal impact and submit the report on or before February 15 of each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Committees on Taxation of the Nevada Legislature for their review.

12. As used in this section:

(a) "Committee" means the Committee on Local Government Finance created pursuant to NRS 354.105.

(b) "Construction, maintenance and repair" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a county or city road and is necessary for the safe and efficient use of that road, including, without limitation:

- (1) Grades and regrades;
- (2) Graveling, oiling, surfacing, macadamizing and paving;
- (3) Sweeping, cleaning and sanding roads and removing snow from a road;
- (4) Crosswalks and sidewalks;
- (5) Culverts, catch basins, drains, sewers and manholes;
- (6) Inlets and outlets;
- (7) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;
- (8) Artificial lights and lighting equipment, parkways, control of vegetation and sprinkling facilities;
- (9) Rights-of-way;

(10) Grade and traffic separators;

(11) Fences, cattle guards and other devices to control access to a county or city road;

(12) Signs and devices for the control of traffic; and

(13) Facilities for personnel and the storage of equipment used to construct, maintain or repair a county or city road.

(c) "Improved road or street" means a road or street that is, at least:

(1) Aligned and graded to allow reasonably convenient use by a motor vehicle; and

(2) Drained sufficiently by a longitudinal and transverse drainage system to prevent serious impairment of the road or street by surface water.

(d) "Total mileage of an improved road or street" means the total mileage of the length of an improved road or street, without regard to the width of that road or street or the number of lanes it has for vehicular traffic.

Sec. 49. NRS 373.023 is hereby amended to read as follows:

373.023 "Commission" means ~~the~~ *a* regional transportation commission ~~]~~ *created pursuant to section 18 of this act.*

Sec. 50. NRS 373.030 is hereby amended to read as follows:

373.030 1. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance ~~]~~

~~(a) Create a regional transportation commission; and~~

~~(b) Impose]~~ *impose* a tax on motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount not to exceed 9 cents per gallon.

2. A tax imposed pursuant to this section is in addition to other motor vehicle fuel taxes imposed pursuant to the provisions of chapter 365 of NRS.

3. As used in this section:

(a) "Aviation fuel" has the meaning ascribed to it in NRS 365.015.

(b) "Leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

Sec. 51. NRS 373.060 is hereby amended to read as follows:

373.060 Any ordinance enacted pursuant to ~~paragraph (b) of subsection 1 of]~~ NRS 373.030 must provide that the county motor vehicle fuel tax will be imposed on the first day of the second calendar month following the enactment of the ordinance.

Sec. 52. NRS 373.065 is hereby amended to read as follows:

373.065 1. Except as otherwise provided in this section, in a county whose population is less than 400,000:

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.180 by the

lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.180 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.190 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.190 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.192 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.192 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(d) If the board imposes a tax pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030, the board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax

becomes effective, in an amount equal to the sum of the tax imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

2. A board may not adopt any ordinance authorized by this section unless:

(a) In a county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board first:

(1) Imposes a tax pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; or

(2) Submits to the voters of the county at a general or special election the question of whether to impose a tax pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; and

(b) A question concerning the imposition of the tax pursuant to this section is first approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. The Committee on Local Government Finance shall annually provide to each city clerk, county clerk and district attorney in this State forms for submitting a question to the registered voters of a county pursuant to this paragraph. Any question submitted to the registered voters of a county pursuant to this paragraph must be in the form most recently provided by the Committee on Local Government Finance.

3. An ordinance adopted pursuant to this section in a county whose population is less than 100,000:

(a) Must be reapproved, in addition to the approval required by paragraph (b) of subsection 2, at least once every 8 years by a majority of the registered voters of the county voting on the question which the board may submit to the voters at any general election; and

(b) Expires by limitation no later than the last day of the 8th calendar year following the calendar year in which the ordinance was:

(1) Approved in accordance with paragraph (b) of subsection 2; or

(2) Most recently reapproved in accordance with this subsection,

↳ whichever occurs later.

4. Any ordinance authorized by this section may be adopted in combination with any other ordinance authorized by this section. Each tax imposed pursuant to this section is in addition to any other motor vehicle fuel taxes imposed pursuant to the provisions of this chapter and chapter 365 of NRS. Upon adoption of an ordinance authorized by this section, no further action by the board is necessary to effectuate the annual increases before the ordinance expires by limitation.

5. Any ordinance adopted pursuant to this section must:

(a) Become effective on the first day of the first calendar quarter beginning not less than 90 days after the adoption of the ordinance; and

(b) If the board has created a ~~[regional transportation]~~ commission in the county, require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

6. Any ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.180 which becomes effective after the adoption of that ordinance.

(b) Paragraph (b) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.190 which becomes effective after the adoption of that ordinance.

(c) Paragraph (c) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.192 which becomes effective after the adoption of that ordinance.

(d) Paragraph (d) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same

proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030; and

(2) Expire by limitation no later than the effective date of any subsequent ordinance increasing or decreasing the amount of the tax imposed in that county pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030.

Sec. 53. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of the county motor vehicle fuel tax:

1. Imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter ~~and sections 2 to 41, inclusive, of this act.~~ After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 54. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 55. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county motor vehicle fuel tax ordinance shall be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues, pursuant to this chapter, have been discharged in full, but the board, **with the approval of the governing body of each participating city**, may at any time dissolve the commission and provide that no further obligations shall be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030 of the proceeds of the motor vehicle fuel taxes collected thereunder, shall not be repealed nor amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds, pursuant to this chapter, have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations shall be incurred thereafter.

Sec. 56. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ~~[an ordinance]~~ **ordinances** as authorized in NRS 373.030 ~~[.]~~ **and section 18 of this act**, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from a county motor vehicle fuel tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 must first be submitted to the ~~[regional transportation]~~ commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161.]~~ **section 25 of this act**, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

↪ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of the county motor vehicle fuel tax authorized pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, except to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred hereunder, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in ~~[NRS 373.130.]~~ **section 35 of this act**. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161.]~~ **section 25 of this act**.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to ~~NRS 373.1161~~ **section 25 of this act**, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➔ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

Sec. 57. NRS 373.150 is hereby amended to read as follows:

373.150 1. Any city or town whose territory is not included wholly or in part in a regional plan for transportation established pursuant to ~~NRS 373.1161~~ **section 25 of this act** may receive a distribution in aid of an approved construction project from the regional street and highway fund, which must not exceed the amount allocated to such city or town pursuant to subsection 2.

2. The share of revenue from the county motor vehicle fuel tax allocated to a city or town pursuant to subsection 1 must be in the proportion which its total assessed valuation bears to the total assessed valuation of the entire county. Any amount so allocated which is not distributed currently in aid of an approved project must remain in the fund to the credit of that city or town.

Sec. 58. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances providing for the issuance of any bonds or other securities issued hereunder payable from the receipts from the motor vehicle fuel excise taxes herein designated may at the discretion of the board, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their

application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued hereunder.

2. If the board determines in any ordinance authorizing the issuance of any bonds or other securities hereunder that the proceeds of the taxes levied and collected pursuant to ~~paragraph (b) of subsection 1 of~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065 are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance hereunder by a pledge of and the creation of a lien upon not only the proceeds of any motor vehicle fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of ~~NRS 373.130,~~ **section 35 of this act**, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any motor vehicle fuel so long as any bonds or other securities issued hereunder remain outstanding and are not limited to any type or types of motor vehicle fuel in use when the bonds or other securities are issued.

Sec. 59. NRS 377A.130 is hereby amended to read as follows:

377A.130 A public transit system may, in addition to providing local transportation within a county, provide:

1. Services to assist commuters in communicating with others to share rides;
2. Transportation for elderly persons and persons with disabilities, including, without limitation, nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170;
3. Parking for the convenience of passengers on the system;
4. Stations and other necessary facilities to ensure the comfort and safety of passengers; and
5. Transportation that is available pursuant to ~~NRS 373.117,~~ **section 29 of this act**.

Sec. 60. NRS 405.030 is hereby amended to read as follows:

405.030 1. Except as otherwise provided in subsection 3 **and section 28 of this act**, and except within the limits of any city or town through which the highway may run, and on benches and shelters for passengers of public mass transportation built pursuant to a franchise granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~373.1183,~~ **section 32 of this act**, or on monorail stations, it is unlawful for any person, firm or corporation to paste, paint, print or in any manner

whatever place or attach to any building, fence, gate, bridge, rock, tree, board, structure or anything whatever, any written, printed, painted or other outdoor advertisement, bill, notice, sign, picture, card or poster:

(a) Within any right-of-way of any state highway or road which is owned or controlled by the Department of Transportation.

(b) Within 20 feet of the main-traveled way of any unimproved highway.

(c) On the property of another within view of any such highway, without the owner's written consent.

2. Nothing in this section prevents the posting or maintaining of any notices required by law to be posted or maintained, or the placing or maintaining of highway signs giving directions and distances for the information of the traveling public if the signs are approved by the Department of Transportation.

3. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

4. If a franchisee receives revenues from an advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

5. As used in this section, "monorail station" means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 61. NRS 405.110 is hereby amended to read as follows:

405.110 1. Except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~[373.1183.]~~ **sections 28 and 32 of this act**, or on monorail stations, no advertising signs, signboards, boards or other materials containing advertising matter may:

(a) Except as otherwise provided in subsection 3, be placed upon or over any state highway.

(b) Except as otherwise provided in subsections 3 and 4, be placed within the highway right-of-way.

(c) Except as otherwise provided in subsection 3, be placed upon any bridge or other structure thereon.

(d) Be so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways or otherwise so situated as to constitute a hazard upon or prevent the safe use of the state highway.

2. With the permission of the Department of Transportation, counties, towns or cities of this State may place at such points as are designated by the Director of the Department of Transportation suitable signboards advertising the counties, towns or municipalities.

3. A person may place an advertising sign, signboard, board or other material containing advertising matter in any airspace above a highway if:

(a) The Department of Transportation has leased the airspace to the person pursuant to subsection 2 of NRS 408.507, the airspace is over an interstate highway and:

(1) The purpose of the sign, signboard, board or other material is to identify a commercial establishment that is entirely located within the airspace, services rendered, or goods produced or sold upon the commercial establishment or that the facility or property that is located within the airspace is for sale or lease; and

(2) The size, location and design of the sign, signboard, board or other material and the quantity of signs, signboards, boards or other materials have been approved by the Department of Transportation; or

(b) The person owns real property adjacent to an interstate highway and:

(1) The person has dedicated to a public authority a fee or perpetual easement interest in at least 1 acre of the property for the construction or maintenance, or both, of the highway over which he is placing the sign, signboard, board or other material and the person retained the air rights in the airspace above the property for which the person has dedicated the interest;

(2) The sign, signboard, board or other material is located in the airspace for which the person retained the air rights;

(3) The structure that supports the sign, signboard, board or other material is not located on the property for which the person dedicated the fee or easement interest to the public authority, and the public authority determines that the location of the structure does not create a traffic hazard; and

(4) The purpose of the sign, signboard, board or other material is to identify an establishment or activity that is located on the real property adjacent to the interstate highway, or services rendered or goods provided or sold on that property.

4. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations

set forth in NRS 118B.145. As used in this subsection, the term “political sign” has the meaning ascribed to it in NRS 118B.145.

5. If any such sign is placed in violation of this section, it is thereby declared a public nuisance and may be removed forthwith by the Department of Transportation or the public authority.

6. Any person placing any such sign in violation of the provisions of this section shall be punished by a fine of not more than \$250, and is also liable in damages for any injury or injuries incurred or for injury to or loss of property sustained by any person by reason of the violation.

7. If a franchisee receives revenues from an advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

8. As used in this section, “monorail station” means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 62. NRS 484.287 is hereby amended to read as follows:

484.287 1. It is unlawful for any person to place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any such device, sign or signal, and except as otherwise provided in subsection 4, a person shall not place or maintain nor may any public authority permit upon any highway any sign, signal, ~~or~~ marking *or street banner* bearing thereon any commercial advertising except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, ~~or 373.1183,~~ *or sections 28 and 32 of this act*, or on monorail stations.

2. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the proper public authority may remove the same or cause it to be removed without notice.

3. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices.

4. A person may place and maintain commercial advertising in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110, and a public authority may permit commercial advertising that has been placed in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110.

5. If a franchisee receives revenues from commercial advertising authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

6. As used in this section ~~["monorail"]~~:

(a) **"Monorail station"** means:

~~[(a)]~~ (1) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

~~[(b)]~~ (2) Any facilities or appurtenances within such a structure.

(b) **"Street banner"** has the meaning ascribed to it in section 15 of this act.

Sec. 63. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as otherwise provided in NRS ~~[373.117,]~~ 706.446, 706.453 and 706.745, **and section 29 of this act**, for any fully regulated common motor carrier to operate as a carrier of intrastate commerce and any operator of a tow car to perform towing services within this State without first obtaining a certificate of public convenience and necessity from the Authority.

Sec. 64. NRS 373.025, 373.026, 373.040, 373.050, 373.055, 373.113, 373.115, 373.116, 373.1161, 373.1163, 373.117, 373.118, 373.1183, 373.1185, 373.130, 373.143 and 373.146 are hereby repealed.

Sec. 65. This act becomes effective on July 1, 2009.

LEADLINES OF REPEALED SECTIONS

373.025 "Federal securities" defined.

373.026 "Fixed guideway" defined.

373.040 Regional transportation commission: Number, selection and terms of representatives.

373.050 Regional transportation commission: Organization; meetings.

373.055 Regional transportation commission: Designation as metropolitan planning organization; duties.

373.113 Powers of commission: Federal money and projects; conduct of hearings.

373.115 Powers of commission: Creation of fund to match federal money.

373.116 Powers of commission: Real and personal property; eminent domain; adoption of regulations.

373.1161 Powers of commission: Capacity to sue and be sued; preparation and approval of budgets; plans for transportation; insurance.

373.1163 Powers of commission: Security; employment of personnel.

373.117 Authority of commission and certain counties and cities to establish or operate public transit system; special procedures for procurement and requirements for development of fixed guideway system.

373.118 Powers of commission: Parking facilities or parking spaces for general public and public employees.

373.1183 Counties whose population is 400,000 or more: Construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.

373.1185 Counties whose population is 400,000 or more: Advisory committee concerning construction, installation and maintenance of benches, shelters and transit stops.

373.130 Payment of cost of project by issuance of revenue bonds and other securities and direct distribution from regional street and highway fund.

373.143 Annual report to Department by commission in county which has population of less than 100,000.

373.146 Commission in county whose population is 400,000 or more to cooperate with local air pollution control board and regional planning coalition; prerequisites to adoption or amendment by commission of plan, policy or program.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bill No. 245.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 109, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 576 of the Assembly be receded from and a 2nd reprint be created in accordance with this action.

JERRY CLABORN

JOHN CARPENTER

Assembly Conference Committee

DAVID PARKS
ALLISON COPENING
DEAN RHOADS

Senate Conference Committee

Assemblyman Claborn moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 109.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 205.

The following Senate amendment was read:

Amendment No. 821.

AN ACT relating to the taxation of property; revising the provisions governing the calculation of certain partial abatements of taxes and the taxable value of improvements made on land, the designation of taxes on personal property as uncollectible and the taxation of open-space land; clarifying the provisions governing the notification, appeal and revision of the valuation of property on the unsecured tax roll; revising the requirements for certain segregation and statistical reports and projections of assessed value; delaying the required filing date for petitions for the review of certain determinations regarding the applicability of a partial abatement; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 8 of this bill require a county assessor to make certain projections of assessed valuation of property for an upcoming fiscal year that had been made under existing law by the Department of Taxation. (NRS 361.390) Additionally, **section 8** revises the dates when a county assessor must file with the Department certain statistical and segregation reports showing assessed values of property.

Existing law provides a partial abatement of the property taxes levied on property for which an assessed valuation has previously been established, a remainder parcel of real property, certain single-family residences and certain residential rental dwellings. (NRS 361.4722, 361.4723, 361.4724) **Sections 2 and 9-11** of this bill revise the formula for calculating the partial abatement in such a manner as to lower the cap on the tax liability of an owner of real property when the taxable value of the property is reduced as a result of the partial or complete destruction or removal of an improvement to the property or the correction of an overassessment of an improvement because of a factual error. **Section 13** of this bill changes the date by which a petition must be filed for the review of a county assessor's determination regarding the applicability of a partial abatement from January 15 to the last day of the fiscal year for which the determination is effective. (NRS 361.4734)

Section 3 of this bill allows a county assessor, when determining the cost to replace an improvement on land for the purpose of calculating taxable value, to use the final plans, drawings and other representations prepared by the architect or builder of the improvement to establish its size or quantity. (NRS 361.227)

Section 4 of this bill provides statutory clarification that a county assessor must provide notice of the assessed valuation of property on the secured tax roll on or before December 18 of the fiscal year in which the property is appraised or reappraised, but the individual tax bills provided to the owners of personal property billed on the unsecured tax roll serve as notification of the assessed valuation of that property. (NRS 361.300)

Under existing law, a taxpayer desiring to appeal the assessment of property placed on the unsecured tax roll must, if the property was assessed after December 15 and on or before April 30, file that appeal with the State Board of Equalization on or before May 15. (NRS 361.360) **Sections 5-7** of this bill provide statutory clarification that a taxpayer desiring to appeal the assessment of property on the unsecured tax roll which was assessed at any other time may file that appeal with the county board of equalization on or before January 15. (NRS 361.345, 361.356, 361.357)

Existing law authorizes a county assessor to seize the personal property of a person who neglects or refuses to pay property taxes, and requires the county assessor to post a notice of the seizure within the immediate vicinity of the seized property before selling the property at public auction. (NRS 361.535) **Section 14** of this bill makes it a gross misdemeanor for a person to remove, deface, cover or conceal that notice, or to move or sell, attempt to move or sell or assist another person to move or sell the seized property, before the delinquent taxes are paid.

Existing law allows a county tax receiver to petition the board of county commissioners to designate certain taxes on personal property as uncollectible, thereby relieving the tax receiver from liability for the failure to collect those taxes. (NRS 361.5607) **Section 15** of this bill revises the criteria under which such a petition is authorized to require in every case that

all appropriate collection procedures were followed without success, and that either the taxes have been delinquent for at least 3 years or the amount of the taxes is \$25 or less.

Existing law requires the assessment of a golf course as open-space property and the payment of deferred property taxes when any open-space property is converted to a higher use. (NRS 361A.170, 361A.280) ~~[Section]~~ **Sections 18-20** of this bill **provide for the designation and classification of certain land regarding which the owner has granted and has outstanding a lease of surface water rights as open-space real property for the purposes of taxation.** **Section 22 of this bill** specifies criteria for determining when a golf course becomes disqualified for open-space use assessment. (NRS 361A.230) **Sections 16 and ~~20~~ 25** of this bill clarify the amount of deferred property taxes due upon the conversion of any **agricultural or** open-space property to a higher use. **Section 29 of this bill repeals a related section which provided the manner for determining the taxable value when agricultural land is converted to a higher use.** (NRS **361A.155**)

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) ~~Sections 22, 23 and 24~~ **27, 28 and 29** of this bill provide for the continuation of this funding during the next biennium by postponing its prospective expiration until June 30, 2011.

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

Section 1. NRS 360.690 is hereby amended to read as follows:

360.690 1. Except as otherwise provided in NRS 360.730, the Executive Director shall estimate monthly the amount each local government, special district and enterprise district will receive from the Account pursuant to the provisions of this section.

2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to 8, inclusive, remit monthly that amount to each local government, special district and enterprise district.

3. If, after making the allocation to each enterprise district for the month, the Executive Director determines there is not sufficient money available in the county's subaccount in the Account to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he shall prorate the money in the county's subaccount and allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations

determined pursuant to subsection 2 for all local governments and special districts within the county. The State Treasurer shall remit that amount to the local government or special district.

4. Except as otherwise provided in subsections 5 to 8, inclusive, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~by the Department, pursuant to NRS 361.390,~~ by the Department, pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~by the Department, pursuant to NRS 361.390,~~ by the Department, pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

↪ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

5. Except as otherwise provided in subsection 6 or 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district and that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least \$50,000,000 and the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~by the Department, pursuant to NRS 361.390,~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable

property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

↪ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

6. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments

and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~by the Department, pursuant to NRS 361.390,~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

↪ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

7. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in any of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a positive figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~by the Department, pursuant to NRS 361.390,~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department, ~~pursuant to NRS 361.390,~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

↪ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

8. The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5, 6 or 7 unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he shall:

(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and

(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's subaccount in the Account to determine which amount is greater.

➔ If the Executive Director determines that the amount determined pursuant to paragraph (a) is greater, he shall allocate the money remaining in the county's subaccount in the Account pursuant to the provisions of subsection 3. If the Executive Director determines that the amount of money remaining in the county's subaccount in the Account is greater, he shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the State Treasurer shall remit that money so allocated. The Executive Director shall allocate any additional money in the county's subaccount in the Account pursuant to the provisions of subsection 4, 5, 6 or 7, as appropriate.

9. The percentage changes in population calculated pursuant to subsections 4 to 7, inclusive, must:

(a) Except as otherwise provided in paragraph (c), if the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the Governor pursuant to NRS 360.285, be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) If a new method of determining population is established pursuant to NRS 360.283, be adjusted in a manner that will result in the percentage change being based on population determined pursuant to the new method for both the fiscal year in which the allocation is made and the fiscal year immediately preceding the year in which the allocation is made.

(c) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the Bureau of the Census, be calculated using the population total certified by the Governor pursuant to NRS 360.285 until the appeal is resolved. If additional money is allocated to the local government because the population total certified by the Governor is greater than the population total issued by the Bureau of the Census, the State Treasurer shall deposit that additional money in a separate interest-bearing account. Upon resolution of the appeal, if the population total finally determined pursuant to the appeal is:

(1) Equal to or less than the population total initially issued by the Bureau of the Census, the State Treasurer shall transfer the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, to the Local Government Tax Distribution Account for allocation among the local governments in the county pursuant to subsection 4, 5, 6 or 7, as appropriate.

(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5, 6 or 7, as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an

amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.

10. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.

11. On or before March 15 of each year, the Executive Director shall:

(a) Make an estimate of the receipts from each tax included in the Account on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the Account; and

(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

12. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection 11 in the preparation of its budget.

Sec. 2. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

If the taxable value of an improvement to real property is reduced as a result of:

1. The partial or complete destruction or removal of the improvement;
or

2. The correction pursuant to NRS 361.768 of an overassessment of the improvement because of a factual error,

then for the purpose of calculating the amount of any partial abatement to which the owner of the real property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the initial fiscal year for which that reduction in taxable value applies, the amount determined for the immediately preceding fiscal year pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724, as applicable, must be reduced by the same percentage as the taxable value of the real property is reduced for that initial fiscal year as a result of the partial or complete destruction or removal of the improvement to the property or the correction of the overassessment of the improvement to the property.

Sec. 3. NRS 361.227 is hereby amended to read as follows:

361.227 1. Any person determining the taxable value of real property shall appraise:

(a) The full cash value of:

(1) Vacant land by considering the uses to which it may lawfully be put, any legal or physical restrictions upon those uses, the character of the terrain, and the uses of other land in the vicinity.

(2) Improved land consistently with the use to which the improvements are being put.

(b) Any improvements made on the land by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.

2. The unit of appraisal must be a single parcel unless:

(a) The location of the improvements causes two or more parcels to function as a single parcel;

(b) The parcel is one of a group of contiguous parcels which qualifies for valuation as a subdivision pursuant to the regulations of the Nevada Tax Commission; or

(c) In the professional judgment of the person determining the taxable value, the parcel is one of a group of parcels which should be valued as a collective unit.

3. The taxable value of a leasehold interest, possessory interest, beneficial interest or beneficial use for the purpose of NRS 361.157 or 361.159 must be determined in the same manner as the taxable value of the property would otherwise be determined if the lessee or user of the property was the owner of the property and it was not exempt from taxation, except that the taxable value so determined must be reduced by a percentage of the taxable value that is equal to the:

(a) Percentage of the property that is not actually leased by the lessee or used by the user during the fiscal year; and

(b) Percentage of time that the property is not actually leased by the lessee or used by the user during the fiscal year, which must be determined in accordance with NRS 361.2275.

4. The taxable value of other taxable personal property, except a mobile or manufactured home, must be determined by subtracting from the cost of replacement of the property all applicable depreciation and obsolescence. Depreciation of a billboard must be calculated at 1.5 percent of the cost of replacement for each year after the year of acquisition of the billboard, up to a maximum of 50 years.

5. The computed taxable value of any property must not exceed its full cash value. Each person determining the taxable value of property shall reduce it if necessary to comply with this requirement. A person determining whether taxable value exceeds that full cash value or whether obsolescence is a factor in valuation may consider:

(a) Comparative sales, based on prices actually paid in market transactions.

(b) A summation of the estimated full cash value of the land and contributory value of the improvements.

(c) Capitalization of the fair economic income expectancy or fair economic rent, or an analysis of the discounted cash flow.

↪ A county assessor is required to make the reduction prescribed in this subsection if the owner calls to his attention the facts warranting it, if he discovers those facts during physical reappraisal of the property or if he is otherwise aware of those facts.

6. The Nevada Tax Commission shall, by regulation, establish:

(a) Standards for determining the cost of replacement of improvements of various kinds.

(b) Standards for determining the cost of replacement of personal property of various kinds. The standards must include a separate index of factors for application to the acquisition cost of a billboard to determine its replacement cost.

(c) Schedules of depreciation for personal property based on its estimated life.

(d) Criteria for the valuation of two or more parcels as a subdivision.

7. In determining , ***for the purpose of computing taxable value***, the cost of replacement of :

(a) ***Any*** personal property , ~~[for the purpose of computing taxable value,]~~ the cost of all improvements of the personal property, including any additions to or renovations of the personal property, but excluding routine maintenance and repairs, must be added to the cost of acquisition of the personal property.

(b) ***An improvement made on land, a county assessor may use any final representations of the improvement prepared by the architect or builder of the improvement, including, without limitation, any final building plans, drawings, sketches and surveys, and any specifications included in such representations, as a basis for establishing any relevant measurements of size or quantity.***

8. The county assessor shall, upon the request of the owner, furnish within 15 days to the owner a copy of the most recent appraisal of the property, including, without limitation, copies of any sales data, materials presented on appeal to the county board of equalization or State Board of Equalization and other materials used to determine or defend the taxable value of the property.

9. The provisions of this section do not apply to property which is assessed pursuant to NRS 361.320.

Sec. 4. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:

(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or

(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.

↪ In addition to complying with paragraph (a) or (b), the list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, in a public area of the county courthouse and the county office building in which the county assessor's office is located, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at \$1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever :

(a) *Any property on the secured tax roll* is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal.

(b) *Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the assessed valuation of the property as determined from the appraisal or reappraisal.*

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

Sec. 5. NRS 361.345 is hereby amended to read as follows:

361.345 1. Except as otherwise provided in subsection 2, the county board of equalization may ~~determine~~ :

(a) **Determine** the valuation of any *real or personal* property **placed on:**

(1) **The secured tax roll which was** assessed by the county assessor ~~and may change~~; or

(2) **The unsecured tax roll which was assessed by the county assessor on or after May 1 and on or before December 15; and**

(b) **Change** and correct any valuation found to be incorrect either by adding thereto or by deducting therefrom such sum as is necessary to make it conform to the taxable value of the property assessed, whether that valuation was fixed by the owner or the county assessor. The county board of equalization may not reduce the assessment of the county assessor unless it is established by a preponderance of the evidence that the valuation established by the county assessor exceeds the full cash value of the property or is inequitable. A change so made is effective only for the fiscal year for which the assessment was made. The county assessor shall each year review all such changes made for the previous fiscal year and maintain or remove each change as circumstances warrant.

2. If a person complaining of the assessment of his property:

(a) Has refused or, without good cause, has neglected to give the county assessor his list under oath, as required by NRS 361.265; or

(b) Has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination required by NRS 361.260,

the county assessor shall make a reasonable estimate of the property and assess it accordingly. No reduction may be made by the county board of equalization from the assessment of the county assessor made pursuant to this subsection.

3. If the county board of equalization finds it necessary to add to the assessed valuation of any property on the assessment roll, it shall direct the

clerk to give notice to the person so interested by registered or certified letter, or by personal service, naming the day when it will act on the matter and allowing a reasonable time for the interested person to appear.

Sec. 6. NRS 361.356 is hereby amended to read as follows:

361.356 1. An owner of *any real or personal* property *placed on:*

(a) *The secured tax roll* who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before January 15 of the fiscal year in which the assessment was made, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) *The unsecured tax roll which was assessed on or after May 1 and on or before December 15* who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before the following January 15, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the board finds that an inequity exists in the assessment of the value of the land or the value of the improvements, or both, the board may add to or deduct from the value of the land or the value of the improvements, or both, either of the appellant's property or of the property to which it is compared, to equalize the assessment.

4. In the case of residential property, the appellant shall cite other property within the same subdivision if possible.

Sec. 7. NRS 361.357 is hereby amended to read as follows:

361.357 1. The owner of any *real or personal* property *placed on:*

(a) *The secured tax roll* who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year ~~[-]~~ may, not later than January 15 of the fiscal year in which the assessment was made, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) *The unsecured tax roll which was assessed on or after May 1 and on or before December 15* who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year may, not later than the following January 15, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the county board of equalization finds that the full cash value of the property on January 1 immediately preceding the fiscal year for which the taxes are levied is less than the taxable value computed for the property, the board shall correct the land value or fix a percentage of obsolescence to be deducted from the otherwise computed taxable value of the improvements, or both, to make the taxable value of the property correspond as closely as possible to its full cash value.

4. No appeal under this section may result in an increase in the taxable value of the property.

Sec. 8. NRS 361.390 is hereby amended to read as follows:

361.390 Each county assessor shall:

1. File with or cause to be filed with the Secretary of the State Board of Equalization, on or before March 10 of each year, the tax roll, or a true copy thereof, of his county for the current year as corrected by the county board of equalization.

2. Prepare and file with the Department on or before January 31, ~~and again on or before~~ March 5 **and October 31** of each year, a segregation report showing the assessed values for each taxing entity within the county on a form prescribed by the Department. The assessor shall make ~~any~~ projections ~~required~~ **of assessed value** for the current fiscal year ~~and the~~ **upcoming fiscal year regarding real and personal property for which the taxable value is determined by the assessor.** The Department shall make any projections required for the upcoming fiscal year ~~and~~ **regarding the net proceeds of minerals and any property for which the taxable value is determined by the Nevada Tax Commission.**

3. Prepare and file with the Department on or before ~~July 31 for the secured roll and on or before~~ May 5 for the unsecured roll, **on or before August 10 for the secured roll, and on or before October 31 for the unsecured roll and the secured roll**, a statistical report showing values for all categories of property on a form prescribed by the Department.

Sec. 9. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, **and section 2 of this act**, the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that

county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↪ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

↪ whichever is less.

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, **and section 2 of this act**, the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been

separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↳ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

↳ whichever is less.

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section, "remainder parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of

real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

Sec. 10. NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, **and section 2 of this act**, the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↪ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) "Primary residence of the owner" means a residence which:

(1) Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State; and

(2) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

(b) "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(c) "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

↪ if classified as personal property for the purposes of this chapter.

(d) "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

Sec. 11. NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, *and section 2 of*

this act, if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

↳ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

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

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

Sec. 12. NRS 361.4732 is hereby amended to read as follows:

361.4732 Except as otherwise required to carry out *the provisions of section 2 of this act* and any regulations adopted pursuant to NRS 361.4733, and notwithstanding any other provision of NRS 361.471 to 361.4735, inclusive, *and section 2 of this act* to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, *and section 2 of this act*, the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

Sec. 13. NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722, 361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the county assessor of the county in which the property is located. The petition must be submitted on or before ~~January 15~~ **June 30** of the fiscal year for which the determination is effective. The county assessor shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a county assessor or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

Sec. 14. NRS 361.535 is hereby amended to read as follows:

361.535 1. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 30 days after demand, the taxes become delinquent. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 10 days after the taxes become delinquent, a penalty of 10 percent must be added. If the tax and penalty are not paid on demand, the county assessor or his deputy may seize, seal or lock enough of the personal property of the person, company or corporation so neglecting or refusing to pay to satisfy the taxes and costs. The county assessor may use alternative methods of collection, including, without limitation, the assistance of the district attorney.

2. The county assessor shall:

(a) Post a notice of the seizure, with a description of the property, in a public area of the county courthouse or the county office building in which the assessor's office is located, and within the immediate vicinity of the property being seized; and

(b) At the expiration of 5 days, proceed to sell at public auction, at the time and place mentioned in the notice, to the highest bidder, for lawful money of the United States, a sufficient quantity of the property to pay the taxes and expenses incurred. For this service, the county assessor must be allowed from the delinquent person a fee of \$3. The county assessor is not required to sell the property if the highest bid received is less than the lowest acceptable bid indicated in the notice.

↪ A person who, after the notice of the seizure of the property is posted pursuant to this subsection within the immediate vicinity of the property being seized and before the delinquent taxes on the property are paid, and without the consent of the county assessor, removes, defaces, covers or otherwise conceals that notice, moves or sells the property, attempts to move or sell the property, or assists another person to move or sell the property, is guilty of a gross misdemeanor.

3. If the personal property seized by the county assessor or his deputy consists of a mobile or manufactured home, an aircraft, or the personal property of a business, the county assessor shall publish a notice of the seizure once during each of 2 successive weeks in a newspaper of general circulation in the county. If the legal owner of the property is someone other than the registered owner and the name and address of the legal owner can be ascertained from public records, the county assessor shall, before publication, send a notice of the seizure by registered or certified mail to the legal owner. The cost of the publication and notice must be charged to the delinquent taxpayer. The notice must state:

(a) The name of the owner, if known.

(b) The description of the property seized, including the location, the make, model and dimensions and the serial number, body number or other identifying number.

(c) The fact that the property has been seized and the reason for seizure.

(d) The lowest acceptable bid for the sale of the property, which is the total amount of the taxes due on the property and the penalties and costs as provided by law.

(e) The time and place at which the property is to be sold.

➤ After the expiration of 5 days from the date of the second publication of the notice, the property must be sold at public auction in the manner provided in subsection 2 for the sale of other personal property by the county assessor.

4. Upon payment of the purchase money, the county assessor shall deliver to the purchaser of the property sold, with a certificate of the sale, a statement of the amount of taxes or assessment and the expenses thereon for which the property was sold, whereupon the title of the property so sold vests absolutely in the purchaser.

5. After a mobile or manufactured home, an aircraft, or the personal property of a business is sold and the county assessor has paid all the taxes and costs on the property, the county assessor shall deposit into the general fund of the county the first \$300 of the excess proceeds from the sale. The county assessor shall deposit any remaining amount of the excess proceeds from the sale into an interest-bearing account maintained for the purpose of holding excess proceeds separate from other money of the county. If no claim is made for the money within 6 months after the sale of the property for which the claim is made, the county assessor shall pay the money into the general fund of the county. All interest paid on money deposited in the account pursuant to this subsection is the property of the county.

6. If the former owner of a mobile or manufactured home, aircraft, or personal property of a business that was sold pursuant to this section makes a claim in writing for the balance of the proceeds of the sale within 6 months after the completion of the sale, the county assessor shall pay the balance of the proceeds of the sale or the proper portion of the balance over to the former owner if the county assessor is satisfied that the former owner is entitled to it.

Sec. 15. NRS 361.5607 is hereby amended to read as follows:

361.5607 1. The tax receiver may petition the board of county commissioners to designate as uncollectible those taxes on personal property ~~[:] for whose collection all appropriate procedures have been followed and have proved unsuccessful and:~~

(a) Which have been delinquent for 3 years or more; *or*

(b) Whose amount, including penalties and costs, is \$25 or less. ~~[: and~~

~~(c) For whose collection all appropriate procedures have been followed and have proved unsuccessful.]~~

➤ The board may grant or deny the petition with respect to any or all of those taxes.

2. No future liability attaches to the county assessor or the county treasurer for any taxes designated as uncollectible by the board of county commissioners under this section.

Sec. 16. Chapter 361A of NRS is hereby amended by adding thereto a new section to read as follows:

When any portion of agricultural or open-space land is converted to a higher use, the county assessor shall determine its taxable and, as appropriate, agricultural or open-space use values against which to compute the deferred tax for each fiscal year the property was under agricultural or open-space assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use. When agricultural land is converted to a higher use, the agricultural use values for each of the years may be based on the agricultural use for the latest year. When open-space land that is used as a golf course is converted to a higher use, the taxable values for the property must be determined, for the purpose of computing the deferred tax, in accordance with the provisions of NRS 361.227 based upon the assessment of the land as a golf course.

Sec. 17. NRS 361A.031 is hereby amended to read as follows:

361A.031 1. "Converted to a higher use" means:

- (a) A physical alteration of the surface of the property enabling it to be used for a higher use;
- (b) The recording of a final map or parcel map which creates one or more parcels not intended for agricultural *or open-space* use;
- (c) The existence of a final map or parcel map which creates one or more parcels not intended for agricultural *or open-space* use; or
- (d) A change in zoning to a higher use made at the request of the owner.

2. The term does not apply to ~~the property remaining after a~~ *any* portion of the parcel ~~is converted to higher use pursuant to paragraph (b) or (c) of subsection 1 if the remaining portion~~ *that* continues to qualify as agricultural *or open-space* real property.

3. The term does not include leasing the land to or otherwise permitting the land to be used by an agricultural association formed pursuant to chapter 547 of NRS.

4. As used in this section:

- (a) "Final map" has the meaning ascribed to it in NRS 278.0145.
- (b) "Parcel map" has the meaning ascribed to it in NRS 278.017.

Sec. 18. NRS 361A.040 is hereby amended to read as follows:

361A.040 "Open-space real property" means:

1. Land:

(a) Located within an area classified pursuant to NRS 278.250 and subject to regulations designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment; and

(b) Devoted exclusively to open-space use.

2. The improvements on the land described in subsection 1 that is used primarily to support the open-space use and not primarily to increase the value of surrounding developed property or secure an immediate monetary return.

3. Land that is used as a golf course.

4. Land regarding which the owner has granted and has outstanding a lease of surface water rights appurtenant to the property to a political subdivision of this State for a municipal use, if the land was agricultural real property at the time the lease was granted.

Sec. 19. NRS 361A.050 is hereby amended to read as follows:

361A.050 "Open-space use" means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies, maintain natural features which enhance control of floods or preserve sites designated as historic by the Office of Historic Preservation of the Department of Cultural Affairs. The use of real property and the improvements on that real property as a golf course shall be deemed to be an open-space use of the land. **The use of land to lease surface water rights appurtenant to the property to a political subdivision of this State for a municipal use shall be deemed to be an open-space use of the land, if the land was agricultural real property at the time the lease was granted.**

Sec. 20. NRS 361A.170 is hereby amended to read as follows:

361A.170 1. Property used as a golf course is hereby designated and classified as open-space real property and must be assessed as an open-space use.

2. Land regarding which the owner has granted and has outstanding a lease of surface water rights appurtenant to the property to a political subdivision of this State for a municipal use, if the land was agricultural real property at the time the lease was granted, is hereby designated and classified as open-space real property and must be assessed as an open-space use.

3. In addition to the designation and classification of ~~fa golf course~~ property as open-space real property pursuant to ~~subsection 1,~~ subsections 1 and 2, the governing body of each city or county shall, from time to time, specify by resolution additional designations or classifications under its master plan that are designed to promote the conservation of open space, the maintenance of natural features for control of floods and the protection of other natural and scenic resources from unreasonable impairment.

~~3.~~ **4.** The board of county commissioners shall, from time to time, adopt by ordinance procedures and criteria which must be used in considering an application for open-space use assessment based on a designation or classification adopted pursuant to subsection ~~2,~~ **3.** The criteria may include requirements respecting public access to and the minimum size of the property.

Sec. 21. NRS 361A.180 is hereby amended to read as follows:

361A.180 Any owner of real property may apply to the county assessor for open-space use assessment based on a designation or classification adopted pursuant to subsection ~~2~~ 3 of NRS 361A.170 and the payment of taxes on such property as provided in this chapter.

~~Sec. 18.~~ **Sec. 22.** NRS 361A.230 is hereby amended to read as follows:

361A.230 1. The county assessor shall enter on the assessment roll the valuation based on open-space use until the property becomes disqualified for open-space use assessment by:

(a) Sale or transfer to an owner making it exempt from ad valorem property taxation;

(b) Removal of the open-space use assessment by the assessor, with the concurrence of the board, upon discovery that the property is no longer in the open-space use; ~~or~~

(c) *If the open-space use assessment is based on the designation and classification of the property pursuant to subsection 1 of NRS 361A.170, the cessation of the use of the property for golfing or golfing practice, except for:*

(1) A seasonal closure of the property to such use;

(2) A temporary closure of the property for maintenance or repairs; or

(3) A temporary closure of the property, upon notification of the county assessor, for not more than 12 months for any other purpose that is incidental to such use or necessary for the continuation of such use; or

(d) If the open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~2~~ 3 of NRS 361A.170:

(1) Notification by the applicant to the assessor to remove the open-space use assessment; or

(2) Failure to file a new application as provided in NRS 361A.190.

2. Except as otherwise provided in paragraph (a) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner does not operate to disqualify open-space real property from open-space use assessment so long as the property continues to be used exclusively for an open-space use. If the open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~2~~ 3 of NRS 361A.170, the new owner must apply for open-space use assessment in the manner provided in NRS 361A.190.

3. Whenever open-space real property becomes disqualified under subsection 1, the county assessor shall send a written notice of disqualification by certified mail with return receipt requested to each owner of record. The notice must contain the assessed value for the ensuing fiscal year.

Sec. 23. NRS 361A.240 is hereby amended to read as follows:

361A.240 1. The determination of use and the open-space use assessment in each year are final unless appealed.

2. If the application for an open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~¶~~ 3 of NRS 361A.170, the applicant for the open-space assessment is entitled to:

(a) Appeal the determination made by the board of county commissioners to the district court in the county where the property is located, or if located in more than one county, in the county in which the major portion of the property is located, as provided in NRS 278.0235.

(b) Equalization of the open-space use assessment in the manner provided in chapter 361 of NRS for complaints of overvaluation, excessive valuation or undervaluation.

~~Sec. 19.~~ **Sec. 24.** NRS 361A.265 is hereby amended to read as follows:

361A.265 1. An owner of property which has received an agricultural or open-space use assessment:

(a) Must pay the full amount of deferred taxes calculated pursuant to NRS 361A.280 for any property for which a final map will be recorded pursuant to NRS 278.460 before the date on which the map is recorded ~~¶~~, ***if the existence or recording of the map will result in the conversion of any portion of the property to a higher use.***

(b) In all other cases may, before the conversion of any portion of the property to a higher use, pay the amount of deferred taxes which would be due upon the conversion of that property pursuant to NRS 361A.280.

2. An owner who desires to pay the deferred taxes must request, in writing, the county assessor to estimate the amount of the deferred taxes which would be due at the time of conversion. After receiving such a request, the county assessor shall estimate the amount of the deferred taxes due for the next property tax statement and report the amount to the owner.

3. An owner who voluntarily pays the deferred taxes may appeal the valuations and calculations upon which the deferred taxes were based in the manner provided in NRS 361A.273.

4. If a parcel that has been created after the secured tax roll has been closed is converted to a higher use, the assessor must change the roll to reflect the changes in the parcel or parcels and assess the new parcel or parcels at taxable value for the following fiscal year. The deferred tax must be assessed pursuant to NRS 361A.280.

~~Sec. 20.~~ **Sec. 25.** NRS 361A.280 is hereby amended to read as follows:

361A.280 If the county assessor is notified or otherwise becomes aware that a parcel or any portion of a parcel of real property which has received agricultural or open-space use assessment has been converted to a higher use, the county assessor shall add to the tax extended against that portion of the property on the next property tax statement the deferred tax, which is the difference between the taxes that would have been paid or payable on the basis of the agricultural or open-space use valuation and the taxes which would have been paid or payable on the basis of the taxable value calculated

pursuant to ~~[NRS 361A.155] []~~ ~~for~~ *section 16 of this act* ~~[, as applicable,]~~ for each year in which agricultural or open-space use assessment was in effect for the property during the fiscal year in which the property ceased to be used exclusively for agricultural use or approved open-space use and the preceding 6 fiscal years. The county assessor shall assess the property pursuant to NRS 361.227 for the next fiscal year following the date of conversion to a higher use.

~~[Sec. 24.]~~ **Sec. 26.** NRS 361A.283 is hereby amended to read as follows:

361A.283 1. If the county assessor determines that the deferred tax for any fiscal year or years was not assessed in the year it became due, he may assess it anytime within 5 fiscal years after the end of the fiscal year in which a parcel or portion of a parcel was converted to a higher use.

2. If the county assessor determines that a parcel was assessed for agricultural *or open-space* use rather than at full taxable value for any fiscal year in which it did not qualify for agricultural *or open-space* assessment, he may assess the deferred tax for that year anytime within 5 years after the end of that fiscal year.

3. A penalty equal to 20 percent of the total accumulated deferred tax described in subsections 1 and 2 must be added for each of the years in which the owner failed to provide the written notice required by NRS 361A.270. The county assessor may waive this penalty if he finds extenuating circumstances sufficient to justify the waiver.

~~[Sec. 22.]~~ **Sec. 27.** Section 57 of chapter 496, Statutes of Nevada 2005, as amended by section 27 of chapter 415, Statutes of Nevada 2007, at page 1899, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~[2009.]~~ **2011.**

5. Section 43 of this act expires by limitation on June 30, ~~[2009.]~~ **2011.**

~~[Sec. 23.]~~ **Sec. 28.** 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, of this act], and~~ expire by limitation on June 30, 2009.

~~[4.]~~ 3. Sections 1, 3 ~~[, 5]~~ and 13 of this act become effective on July 1, 2009.

~~[5.]~~ 4. Sections 1 ~~[, 2, 3 and 5]~~ to 4, *inclusive*, of this act expire by limitation on June 30, 2011.

~~[Sec. 24.]~~ **Sec. 29. 1. NRS 361A.155 is hereby repealed.**

2. Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17, is hereby repealed.

~~[Sec. 25.]~~ **Sec. 30.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 26.]~~ **Sec. 31.** 1. This section and sections 3, 4, ~~27, 28,~~ **subsection 2 of section 29** and ~~[22 to 25, inclusive,]~~ **section 30** of this act become effective upon passage and approval.

2. Sections 1, 2 and 5 to ~~[24.]~~ **26, inclusive, and subsection 1 of section 29** of this act become effective on July 1, 2009.

TEXT OF REPEALED ~~[SECTION]~~ SECTIONS

361A.155 Determination of taxable value when agricultural land converted to higher use. When any portion of agricultural land is converted to a higher use, the county assessor shall determine its taxable and agricultural use values against which to compute the deferred tax for each fiscal year the property was under agricultural assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The agricultural use values for each of the years may be based on the agricultural use for the latest year. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use.

Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17:

Sec. 5. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, *as estimated and paid pursuant to NRS 362.115, plus any amounts paid pursuant to NRS 362.130* by the combined rate of tax ad valorem ~~[,]~~ *for the fiscal year to which the payments apply*, excluding any rate levied by the State of Nevada, for property at that site, plus a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year the amount appropriated to each county, as calculated for each operation from the ~~[final statement made in February of that year]~~ *estimate provided pursuant to NRS 362.115 for the current calendar year and any adjustments made*

pursuant to NRS 362.130 for the preceding calendar year. The State Controller shall distribute all money due to a county on or before May 30 of each year. *The Department shall report to the State Controller any additional payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 within 15 days after receipt of the payment, and the State Controller shall distribute the money to the appropriate county within 5 days after receipt of the report from the Department. For the purposes of this subsection, payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 apply to the fiscal year in which the statement of the estimated net proceeds is filed pursuant to paragraph (a) of subsection 1 of NRS 362.115.*

2. The county treasurer shall apportion to each local government or other local entity an amount calculated by:

(a) Determining the total of the amounts obtained by multiplying, for each extractive operation situated within its jurisdiction, the net proceeds of that operation and any royalty payments paid by that operation, by the rate levied on behalf of that local government or other local entity;

(b) Adding to the amount determined pursuant to paragraph (a) a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to that local government or local entity; and

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 3 percent of that amount which must be deposited in the county general fund.

3. The amounts apportioned pursuant to subsection 2, including, without limitation, the amount retained by the county and excluding the percentage commission, must be applied to the uses for which each levy was authorized in the same proportion as the rate of each levy bears to the total rate.

4. The Department shall report to the State Controller on or before May 25 of each year the amount received as tax upon the net proceeds of geothermal resources which equals the product of those net proceeds multiplied by the rate of tax levied ad valorem by the State of Nevada.

Assemblywoman McClain moved that the Assembly concur in the Senate amendment to Assembly Bill No. 205.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 47 be taken from the Chief Clerk's desk and referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 101.

The following Senate amendment was read:

Amendment No. 847.

AN ACT relating to the support of children; authorizing each county in this State to participate in the Program for the Enforcement of Child Support; requiring each county that participates in the Program to pay the cost of the Program in that county; revising certain provisions governing the administration and enforcement of the Program; deleting provisions relating to the placement and confidentiality of certain records concerning the support of a dependent child; requiring a district court to review, on the record, certain recommendations of a master; revising provisions governing the failure of an employer to deliver money that is withheld from the income of an employee for child support; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes each county in this State to participate in the Program for the Enforcement of Child Support created under federal law. If a county participates in the Program, the county must pay for the cost of the Program in that county. **Section 1** also authorizes a county that participates in the Program to withdraw from the Program after providing a notice of withdrawal to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

Section 2 of this bill provides that any payment of public assistance made by the Division for the support of a child creates a debt against the responsible parent, regardless of any court order for custody or support of the child to the contrary. (NRS 425.360)

Section 3 of this bill specifies that the Administrator of the Division or his designee is responsible for and is required to supervise the Program. (NRS 425.365)

Sections 5, 7, 10, 14 and 15 of this bill specify that the approval by a district court of a recommendation made by a master concerning the support of a dependent child must be made in accordance with certain procedural requirements. (NRS 425.382, 425.383, 425.3836, 425.540)

Sections 6, 11, 12, 19 and 21 of this bill delete provisions of existing law that require a master, after making a recommendation for the support of a dependent child, or a district court to ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is paid are placed in the records relating to the matter and remain confidential. (NRS 425.3828, 425.3844, 425.3855, 125.230, 125B.055)

Section 8 of this bill authorizes a master who conducts a hearing relating to the support of a dependent child to conduct the hearing by telephone or by

any audiovisual or other electronic means outside the judicial district in which the master is appointed. (NRS 425.3832)

Section 9 of this bill provides that if a district court reviews a recommendation of a master concerning the support of a dependent child, the review must be conducted on the record of the case before the master. (NRS 425.3834)

Under existing law, a master who makes a recommendation concerning the support of a dependent child must furnish the recommendation to each party in the case before the master. Each party may then file an objection to the recommendation within 10 days after receiving the recommendation. If a notice of objection is not filed, the district court must accept the recommendation and may enter judgment thereon. **Section 11** of this bill provides that if a notice of objection is not filed, the recommendation of the master shall be deemed approved by the district court and the clerk of the court may file the recommendation. (NRS 425.3844)

Section 13 of this bill provides that a financial institution which is doing business in Nevada and which receives notification of a lien against a responsible parent from an agency for the enforcement of child support located in another state is required to encumber all assets held by the financial institution on behalf of the responsible parent and surrender those assets upon the enforcement of the lien. **Section 13** also provides immunity from liability for the agency located in another state for disclosing information and providing assets to certain other persons. (NRS 425.460)

Sections 16 and 17 of this bill set forth penalties that may be imposed against an employer who refuses or intentionally fails to deliver to the appropriate enforcing authority any money that the employer is required to withhold from an employee's wages for child support owed by the employee. The penalties include, without limitation, the payment of punitive damages to the person to whom the child support is owed. (NRS 31A.095, 31A.120)

Section 18 of this bill deletes provisions of existing law that require a court that grants a decree of divorce to ensure that the social security numbers of both parties to the decree are provided to the Division. (NRS 125.130)

Section 22 of this bill revises provisions governing the amounts paid by a parent for medical support for a child pursuant to a court order requiring the payment of that support. (NRS 125B.085)

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

Section 1. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county may participate in the Program. If a county participates in the Program, the county shall pay the cost of the Program in that county. Any services provided by the county under the Program must be provided in accordance with:

(a) Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any regulations adopted pursuant thereto;

(b) Any regulations adopted pursuant to NRS 425.365; and

(c) A contract entered into with the Division for that purpose.

2. If a county participates in the Program pursuant to subsection 1, the county may, on or before September 1 of each even-numbered year, elect to withdraw from the Program by submitting a notice of withdrawal to the Division. If a county submits a notice of withdrawal pursuant to this subsection, the withdrawal becomes effective on July 1 of the next following year.

Sec. 2. NRS 425.360 is hereby amended to read as follows:

425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, ~~whether or not~~ **regardless of:**

(a) Any court order for custody or support to the contrary, including, without limitation, an order for joint physical custody; or

(b) Whether the parent received prior notice that his child was receiving public assistance.

2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including, **without limitation**, an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. § 1167(1), service benefit plan, self-insured plan or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessities for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.

3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and

Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.

4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.

5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:

(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and

(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.

6. *As used in this section, "joint physical custody" means the physical custody of a dependent child for which the time spent by the dependent child with each responsible parent or with the responsible parent and a custodian of the child is equal.*

Sec. 3. NRS 425.365 is hereby amended to read as follows:

425.365 *1. The Administrator or his designee is responsible for and shall supervise the Program, subject to administrative supervision by the Director of the Department of Health and Human Services.*

2. The Administrator may adopt such regulations and take such actions as are necessary to carry out the provisions of this chapter.

Sec. 4. NRS 425.370 is hereby amended to read as follows:

425.370 *Subject to administrative supervision by the Director of the Department of Health and Human Services pursuant to NRS 425.365:*

1. Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child.

2. As to any other child, the Division and the prosecuting attorney shall, when such action is required by the Social Security Act , ~~42~~ 42 U.S.C. §§ 301 et seq. , ~~42~~ take appropriate action to carry out the Program.

Sec. 5. NRS 425.382 is hereby amended to read as follows:

425.382 1. Except as otherwise provided in NRS 425.346, the Chief may proceed pursuant to NRS 425.3822 to 425.3852, inclusive, after:

(a) Payment of public assistance by the Division; or

(b) Receipt of a request for services to carry out the Program.

2. Subject to approval by the district court ~~42~~ pursuant to NRS 425.3844, a master may:

(a) Take any action authorized pursuant to chapter 130 of NRS, including any of the actions described in subsection 2 of NRS 130.305.

(b) Except as otherwise provided in chapter 130 of NRS and NRS 425.346:

(1) Issue and enforce an order for the support of a dependent child, and modify or adjust such an order in accordance with NRS 125B.145;

(2) Require coverage for health care of a dependent child;

(3) Establish paternity;

(4) Order a responsible parent to comply with an order for the support of a dependent child, specifying the amount and the manner of compliance;

(5) Order the withholding of income;

(6) Determine the amount of any arrearages and specify a method of payment;

(7) Enforce orders by civil or criminal contempt, or both;

(8) Set aside property for satisfaction of an order for the support of a dependent child;

(9) Place liens and order execution on the property of the responsible parent;

(10) Order a responsible parent to keep the master informed of his current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

(11) Issue a bench warrant for a responsible parent who has failed after proper notice to appear at a hearing ordered by the master and enter the bench warrant in any local and state computer system for criminal warrants;

(12) Order the responsible parent to seek appropriate employment by specified methods;

(13) Order the responsible parent to participate in a program intended to resolve issues that prevent the responsible parent from obtaining employment, including, without limitation, a program for the treatment of substance abuse or a program to address mental health issues;

(14) Upon the request of the Division, require a responsible parent to:

(I) Pay any support owed in accordance with a plan approved by the Division; or

(II) Participate in such work activities, as that term is defined in 42 U.S.C. § 607(d), as the Division deems appropriate;

(15) Award reasonable attorney's fees and other fees and costs; and

(16) Grant any other available remedy.

Sec. 6. NRS 425.3828 is hereby amended to read as follows:

425.3828 1. If a written response setting forth objections and requesting a hearing is received by the office issuing the notice and finding of financial responsibility within the specified period, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail.

2. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the

specified period, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall:

(a) Include in that recommendation:

(1) If the paternity of the dependent child is established by the recommendation, a declaration of that fact.

(2) The amount of monthly support to be paid, including directions concerning the manner of payment.

(3) The amount of arrearages owed.

(4) Whether coverage for health care must be provided for the dependent child.

(5) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[(1)]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(6) The names of the parents or legal guardians of the child.

(7) The name of the person to whom, and the name and date of birth of the dependent child for whom, support is to be paid.

(8) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(9) A statement that objections to the recommendation may be filed with the district court and served upon the other party within 10 days after receipt of the recommendation.

(b) Ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is to be paid are ~~[-~~

~~(1) Provided]~~ *provided* to the enforcing authority.

~~[(2) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

3. The parent must be sent a copy of the recommendation for the support of a dependent child by regular mail addressed to the last known address of the parent, or if applicable, the last known address of the attorney for the parent.

4. The recommendation for the support of a dependent child is final upon approval by the district court pursuant to NRS 425.3844. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, and the master enters a recommendation for the support of a dependent child, the court may grant relief from the recommendation on the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of Civil Procedure.

Sec. 7. NRS 425.383 is hereby amended to read as follows:

425.383 1. After the entry of a recommendation for the support of a dependent child by the master that has been approved by the district court ~~or~~ *pursuant to NRS 425.3844*, or after entry of an order for the support of a dependent child by a district court regarding which the Chief is authorized to proceed pursuant to NRS 425.382 to 425.3852, inclusive, the responsible parent, the person entitled to support or the enforcing authority may move for the amount of the child support being enforced to be modified or adjusted in accordance with NRS 125B.145.

2. The motion must:

- (a) Be in writing.
- (b) Set out the reasons for the modification or adjustment.
- (c) State the address of the moving party.
- (d) Be served by the moving party upon the responsible parent or the person entitled to support, as appropriate, by first-class mail to the last known address of that person.

3. The moving party shall mail or deliver a copy of the motion and the original return of service to the Chief.

4. The Chief shall set the matter for a hearing within 30 days after the date of receipt of the motion unless a stipulated agreement between the parties is reached. The Chief shall send to the parties and person with physical custody of the dependent child a notice of the hearing by first-class mail to the last known address of those persons.

5. A motion for modification or adjustment requested pursuant to this section does not prohibit the Chief from enforcing and collecting upon the existing order for support of a dependent child unless so ordered by the district court.

6. The only support payments that may be modified or adjusted pursuant to this section are monthly support payments that:

- (a) A court of this State has jurisdiction to modify pursuant to chapter 130 of NRS; and
- (b) Accrue after the moving party serves notice that a motion has been filed for modification or adjustment.

7. The party requesting the modification or adjustment has the burden of showing a change of circumstances and good cause for the modification or adjustment, unless the request is filed in accordance with subsection 1 of NRS 125B.145.

Sec. 8. NRS 425.3832 is hereby amended to read as follows:

425.3832 1. Except as otherwise provided in this chapter, a hearing conducted pursuant to NRS 425.382 to 425.3852, inclusive, must be conducted in accordance with the provisions of this section by a qualified master appointed pursuant to NRS 425.381.

2. Subpoenas may be issued by:

- (a) The master.
- (b) The attorney of record for the office.

↪ Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS. A witness appearing pursuant to a subpoena, other than a party or an officer or employee of the Chief, is entitled to receive the fees and payment for mileage prescribed for a witness in a civil action.

3. Except as otherwise provided in this section, the master need not observe strict rules of evidence ~~but~~ but shall apply those rules of evidence prescribed in NRS 233B.123.

4. The affidavit of any party who resides outside of the judicial district is admissible as evidence regarding the duty of support, any arrearages and the establishment of paternity. The master may continue the hearing to allow procedures for discovery regarding any matter set forth in the affidavit.

5. The physical presence of a person seeking the establishment, enforcement, modification or adjustment of an order for the support of a dependent child or the establishment of paternity is not required.

6. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under NRS 51.065 if given in person, is admissible in evidence if given under oath by a party or witness residing outside of the judicial district.

7. A copy of the record of payments for the support of a dependent child, certified as a true copy of the original by the custodian of the record, may be forwarded to the master. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.

8. Copies of bills for testing for paternity, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before the hearing, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

9. Documentary evidence transmitted from outside of the judicial district by telephone, telecopier or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

10. The master may ~~permit~~ :

(a) **Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which he is appointed.**

(b) **Permit** a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location outside of the judicial district.

↪ The master shall cooperate with courts outside of the judicial district in designating an appropriate location for the **hearing**, deposition or testimony.

11. If a party called to testify at a hearing refuses to answer a question on the ground that the testimony may be self-incriminating, the master may draw an adverse inference from the refusal.

12. A privilege against the disclosure of communications between husband and wife does not apply.

13. The defense of immunity based on the relationship of husband and wife or parent and child does not apply.

Sec. 9. NRS 425.3834 is hereby amended to read as follows:

425.3834 1. Upon issuance by a district court of an order approving a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, the Chief shall enforce and collect upon the order, including arrearages.

2. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, is final upon approval by the district court pursuant to NRS 425.3844. Upon such approval, the recommendation is in full force and effect while any judicial review is pending unless the recommendation is stayed by the district court.

3. The district court may review ~~[, pursuant to the rules adopted therefor by the district judges of the judicial district in which the court is located,]~~ a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive. ***If a review is conducted, the district court shall review the recommendation on the record of the case before the master.***

Sec. 10. NRS 425.3836 is hereby amended to read as follows:

425.3836 1. After the issuance of an order for the support of a dependent child by a court, the Chief may issue a notice of intent to enforce the order. The notice must be served upon the responsible parent in the manner prescribed for service of summons in a civil action or mailed to the responsible parent by certified mail, restricted delivery, with return receipt requested.

2. The notice must include:

(a) The names of the person to whom support is to be paid and the dependent child for whom support is to be paid.

(b) The amount of monthly support the responsible parent is required to pay by the order for support.

(c) A statement of the arrearages owed pursuant to the order for support.

(d) A demand that the responsible parent make full payment to the enforcing authority within 14 days after the receipt or service of the notice.

(e) A statement that the responsible parent may be required to provide coverage for the health care of the dependent child when coverage is available to the parent at a reasonable cost.

(f) A statement of any requirements the Division will request pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the payment of support by the responsible parent or the participation of the responsible parent in work activities.

(g) A statement that if the responsible parent objects to any part of the notice of intent to enforce the order, he must send to the office that issued the notice a written response within 14 days after the date of receipt of service that sets forth any objections and includes a request for a hearing.

(h) A statement that if full payment is not received within 14 days or a hearing has not been requested in the manner provided in paragraph (g), the Chief is entitled to enforce the order and that the property of the responsible parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(i) A reference to NRS 425.382 to 425.3852, inclusive.

(j) A statement that the responsible parent is responsible for notifying the office of any change of address or employment.

(k) A statement that if the responsible parent has any questions, he may contact the appropriate office or consult an attorney.

(l) Such other information as the Chief finds appropriate.

3. If a written response setting forth objections and requesting a hearing is received within the specified period by the office issuing the notice of intent to enforce the order, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the responsible parent by regular mail. If a written response and request for hearing is not received within the specified period by the office issuing the notice, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall include in that recommendation:

(a) The amount of monthly support to be enforced, including directions concerning the manner of payment.

(b) The amount of arrearages owed and the manner of payment.

(c) Whether coverage for health care must be provided for the dependent child.

(d) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[-]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(e) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, the withholding of wages, garnishment, liens and execution on liens.

4. After the district court approves the recommendation for the support of a dependent child, the recommendation is final. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. This section does not prevent the Chief from using other available remedies for the enforcement of an obligation for the support of a dependent child at any time.

6. The master may hold a hearing to enforce a recommendation for the support of a dependent child after the recommendation has been entered and approved by the district court ~~[-]~~ **pursuant to NRS 425.3844**. The master may enter a finding that the parent has not complied with the order of the court and may recommend to the district court that the parent be held in contempt

of court. The finding and recommendation is effective upon review and approval of the district court.

Sec. 11. NRS 425.3844 is hereby amended to read as follows:

425.3844 1. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, must be furnished to each party or his attorney at the conclusion of the proceedings or as soon thereafter as possible.

2. Within 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation. The notice must include:

- (a) A copy of the master's recommendation;
- (b) The results of any blood tests or tests for genetic identification examined by the master;
- (c) A concise statement setting forth the reasons that the party disagrees with the master's recommendation, including any affirmative defenses that must be pleaded pursuant to the Nevada Rules of Civil Procedure;
- (d) A statement of the relief requested;
- (e) The notice and finding of financial responsibility if the Chief issued such a notice and finding; and
- (f) Any other relevant documents.

3. ~~The district court shall:~~

~~(a)~~ If, ***within 10 days after receipt of the recommendation***, a notice of objection is ~~not~~:

(a) ***Not*** filed, ~~except~~ the recommendation entered by the master ~~including a recommendation establishing paternity, unless clearly erroneous,~~ ***shall be deemed approved by the district court, and the clerk of the district court may file the recommendation pursuant to subsection 7 and*** judgment may be entered thereon; or

(b) ~~If a notice of objection is filed within the 10-day period,~~ ***Filed, the district court shall*** review the matter pursuant to NRS 425.3834.

4. A party who receives a notice of objection pursuant to subsection 2 is not required to file an answer to that notice. The district court shall review each objection contained in the notice.

5. If a notice of objection includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity. The obligation for the support of the child continues to accrue during the consideration of the determination of paternity and must be collected as arrears after the completion of the trial if the court approves the recommendation of the master.

6. If a recommendation entered by a master, ~~pursuant to NRS 425.382 to 425.3852, inclusive,~~ including a recommendation establishing paternity, ***is deemed approved by the district court pursuant to paragraph (a) of subsection 3 and the recommendation*** modifies or adjusts a previous order

for support issued by any district court in this State, that district court ~~shall review the recommendation and approve or reject the recommendation issued]~~ **must be notified of the recommendation** by the master.

7. Upon approval by the district court of a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, a copy of the recommendation, with the approval of the court endorsed thereon, must be filed:

(a) In the office of the clerk of the district court;

(b) If the order of the district court approving the recommendation of the master modifies or adjusts a previous order issued by any district court in this State, with the original order in the office of the clerk of that district court; and

(c) With any court that conducts a proceeding related thereto pursuant to the provisions of chapter 130 of NRS.

8. A district court that approves a recommendation pursuant to this section shall ensure that, before the recommendation is filed pursuant to subsection 7, the social security numbers of the parents or legal guardians of the child are ~~[-~~

~~(a) Provided]~~ **provided** to the enforcing authority.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

9. Upon the approval and filing of the recommendation as provided in subsection 7, the recommendation has the force, effect and attributes of an order or decree of the district court, including, but not limited to, enforcement by supplementary proceedings, contempt of court proceedings, writs of execution, liens and writs of garnishment.

Sec. 12. NRS 425.3855 is hereby amended to read as follows:

425.3855 A district court that enters an order pursuant to NRS 425.382 to 425.3852, inclusive, or an order approving a recommendation for the support of a dependent child made by a master shall ensure that the social security numbers of the parents or legal guardians of the child are ~~[-~~

~~1.— Provided]~~ **provided** to the enforcing authority.

~~[2.— Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

Sec. 13. NRS 425.460 is hereby amended to read as follows:

425.460 1. The Administrator shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. A financial institution doing business in this State shall:

(a) Cooperate with the Administrator in carrying out subsection 1.

(b) Use the system to provide to the Division for each calendar quarter the name, address of record, social security number or other number assigned for

taxpayer identification, and other identifying information for each responsible parent who maintains an account at the financial institution, as identified by the Division by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the Division *or an agency for the enforcement of child support located in another state* of:

(1) Notification of a lien against a responsible parent which:

(I) Arises pursuant to NRS 125B.142; or

(II) Is entitled to full faith and credit pursuant to NRS 125B.144,

↪ encumber ~~such~~ **all** assets held by the financial institution on behalf of the responsible parent ~~[as may be required by the Chief.]~~ **and surrender those assets upon the enforcement of the lien pursuant to those sections.**

(2) A notice of attachment pursuant to subsection 2 of NRS 425.470, surrender to the Chief such assets held by the financial institution on behalf of the responsible parent as may be required by the Chief.

(d) Except as otherwise provided in paragraph (c), in response to the receipt of notice of a lien which is entitled to full faith and credit pursuant to NRS 125B.144 or notice of a levy on such a lien, encumber or surrender, as the case may be, such assets held by the financial institution on behalf of the responsible parent as may be required to enforce the lien.

↪ A financial institution doing business in this State which receives from the Division *or an agency for the enforcement of child support located in another state* a notice of lien, notice of attachment or notice of levy on a lien is not required to encumber or surrender any assets received by the financial institution on behalf of the responsible parent after the financial institution received the notice of lien, notice of attachment or notice of levy on a lien.

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

(a) Any disclosure of information to the Division *or an agency for the enforcement of child support located in another state* pursuant to this section.

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

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

4. If a court issues an order to return to a responsible parent any assets surrendered by a financial institution pursuant to subsection 2, the Division *or an agency for the enforcement of child support located in another state* is not liable to the responsible parent for any of those assets that have been provided to another person or agency in accordance with the order for the payment of support.

Sec. 14. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person:

(a) Has 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) Is in arrears in the payment for the support of one or more children, ↗ and the district court issues an order approving the recommendation of the master [F] *pursuant to NRS 425.3844*, the court shall provide a copy of the order to all agencies that issue professional, occupational or recreational licenses, certificates or permits.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional, occupational or recreational license, certificate or permit to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, the professional, occupational or recreational licenses issued to the person by that agency will be automatically suspended. Such an order must not apply to a license, certificate or permit issued by the Department of Wildlife or the State Land Registrar if that license, certificate or permit expires less than 6 months after it is issued.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 15. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person who is issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS:

(a) Has 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) Is in arrears in the payment for the support of one or more children, ↗ and the district court issues an order approving the recommendation of the master [F] *pursuant to NRS 425.3844*, the court shall provide a copy of the order to all agencies that issue professional or occupational licenses, certificates or permits pursuant to title 54 of NRS.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional or

occupational license, certificate or permit pursuant to title 54 of NRS to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, any professional or occupational license, certificate or permit issued pursuant to title 54 of NRS to the person by that agency will be automatically suspended.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 16. NRS 31A.095 is hereby amended to read as follows:

31A.095 1. If an employer ~~[wrongfully]~~:

(a) ***Wrongfully*** refuses to withhold income as required pursuant to NRS 31A.025 to 31A.190, inclusive, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of NRS 31A.070 ~~[;]~~;

(b) ~~[Fails]~~ ***Refuses or intentionally fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080;*** or ~~[knowingly]~~

(c) ***Knowingly*** misrepresents the income of an employee,
 ↳ the enforcing authority may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalty prescribed in subsection 2 of NRS 31A.120.

2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required, ***refused or intentionally failed to deliver money to the enforcing authority as required*** or knowingly misrepresented an employee's income:

(a) May order the employer to comply with the requirements of NRS 31A.025 to 31A.190, inclusive;

(b) May order the employer to provide accurate information concerning the employee's income;

(c) May fine the employer pursuant to subsection 2 of NRS 31A.120; and

(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the obligor's income ~~[;]~~ ***or refused or intentionally failed to deliver to the enforcing authority.***

Sec. 17. NRS 31A.120 is hereby amended to read as follows:

31A.120 1. It is unlawful for an employer to use the withholding of income to collect an obligation of support as a basis for refusing to hire a potential employee, discharging the employee or taking disciplinary action

against him. Any employer who violates this section shall hire or reinstate the employee with no loss of pay or benefits, is liable for any payments of support not withheld ~~[-]~~ and shall be fined \$1,000. If an employee prevails in an action based on this section, the employer is liable, in an amount not less than \$2,500, for payment of the employee's costs and attorney's fees incurred in that action.

2. If an employer ~~[-]~~ ~~wrongfully~~ :

(a) **Wrongfully** refuses to withhold from the income of an obligor as required pursuant to NRS 31A.025 to 31A.190, inclusive ~~[-]~~ ;

(b) ~~[-]~~ ~~Fails~~ **Refuses or intentionally fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080;** or ~~[-]~~ ~~knowingly~~

(c) **Knowingly** misrepresents the income of the employee, ~~[-]~~ he shall pay the amount he refused to withhold **or refused or intentionally failed to deliver** to the enforcing authority and may be ordered to pay punitive damages to the person to whom support is owed in an amount not to exceed \$1,000 for each pay period he failed to withhold income as required, **refused or intentionally failed to deliver money to the enforcing authority as required** or knowingly misrepresented the income of the employee.

Sec. 18. NRS 125.130 is hereby amended to read as follows:

125.130 1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.

2. Whenever a decree of divorce from the bonds of matrimony is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.

3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are ~~[-]~~

~~[-]~~ (a) ~~Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~[-]~~ (b) ~~Placed~~ **placed** in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of the wife to any former name which she has legally borne.

Sec. 19. NRS 125.230 is hereby amended to read as follows:

125.230 1. The court in such actions may make such preliminary and final orders as it may deem proper for the custody, control and support of any minor child or children of the parties.

2. A court that enters an order pursuant to subsection 1 for the support of any minor child or children shall ensure that the social security numbers of the parties are ~~[-]~~

~~[-]~~ (a) ~~Provided~~ **provided** to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[-]~~ (b) ~~Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.~~

Sec. 20. NRS 125.510 is hereby amended to read as follows:

125.510 1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section, ~~and~~ chapter 130 of NRS ~~and~~ **NRS 425.360:**

(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and

(b) At any time, modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.

↳ The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.

2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.

3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to the jurisdictional requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.

4. A party may proceed pursuant to this section without counsel.

5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS and must contain the following language:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention *on the Civil Aspects of International Child Abduction* of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:

(a) Upon the death of the person to whom the order was directed; or

(b) When the child reaches 18 years of age if he is no longer enrolled in high school, *or* otherwise, when he reaches 19 years of age.

10. As used in this section, a parent has “significant commitments in a foreign country” if he:

(a) Is a citizen of a foreign country;

(b) Possesses a passport in his name from a foreign country;

(c) Became a citizen of the United States after marrying the other parent of the child; or

(d) Frequently travels to a foreign country.

Sec. 21. NRS 125B.055 is hereby amended to read as follows:

125B.055 1. A court that, on or after October 1, 1998, issues or modifies an order in this State for the support of a child shall ~~[-~~

~~(a) Obtain] **obtain** and provide to the Division of Welfare and Supportive Services of the Department of Health and Human Services such information regarding the order as the Division of Welfare and Supportive Services determines is necessary to carry out the provisions of 42 U.S.C. § 654a.~~

~~[(b) Ensure that the social security numbers of the child and the parents of the child are placed in the records relating to the matter and, except as~~

~~otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

2. Within 10 days after a court of this State issues an order for the support of a child, each party to the cause of action shall file with the ~~court that issued the order and the~~ Division of Welfare and Supportive Services:

- (a) His social security number;
- (b) His residential and mailing addresses;
- (c) His telephone number;
- (d) His driver's license number; and
- (e) The name, address and telephone number of his employer.

↪ Each party shall update the information filed with the ~~court and the~~ Division of Welfare and Supportive Services pursuant to this subsection within 10 days after that information becomes inaccurate.

3. The Division of Welfare and Supportive Services shall adopt regulations specifying the particular information required to be provided pursuant to subsection 1 to carry out the provisions of 42 U.S.C. § 654a.

Sec. 22. NRS 125B.085 is hereby amended to read as follows:

125B.085 1. Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after June 2, 2007, must include a provision specifying that one or both parents are required to provide medical support for the child and any details relating to that requirement.

2. As used in this section, "medical support" includes, without limitation, coverage for health care under a plan of insurance ~~[.]~~ **that is reasonable in cost and accessible**, including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses.

For the purpose of this subsection:

(a) Payments of cash for medical support or the costs of coverage for health care under a plan of insurance are "reasonable in cost" if:

(1) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(2) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of the parent.

(b) Coverage for health care under a plan of insurance is "accessible" if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

Sec. 23. (Deleted by amendment.)

Sec. 24. 1. This section and sections 1 to 14, inclusive, and 16 to 23, inclusive, of this act become effective on October 1, 2009.

2. Section 14 of this act expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 15 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 847 to Assembly Bill No. 101.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

The following Senate amendment was read:

Amendment No. 701.

AN ACT relating to the support of children; authorizing each county in this State to participate in the Program for the Enforcement of Child Support; requiring each county that participates in the Program to pay the cost of the Program in that county; revising certain provisions governing the administration and enforcement of the Program; deleting provisions relating to the placement and confidentiality of certain records concerning the support of a dependent child; ~~requiring~~ **revising provisions governing a review by** a district court ~~to review, on the record,~~ **of** certain recommendations of a master; revising provisions governing the failure of an employer to deliver money that is withheld from the income of an employee for child support; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes each county in this State to participate in the Program for the Enforcement of Child Support created under federal law. If a county participates in the Program, the county must pay for the cost of the Program in that county. **Section 1** also authorizes a county that participates in the Program to withdraw from the Program after providing a notice of withdrawal to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~Section 2 of this bill provides that any payment of public assistance made by the Division for the support of a child creates a debt against the responsible parent, regardless of any court order for custody or support of the child to the contrary. (NRS 425.360)~~

Section 3 of this bill specifies that the Administrator of the Division or his designee is responsible for and is required to supervise the Program. (NRS 425.365)

Sections 5, 7, 10, 14 and 15 of this bill specify that the approval by a district court of a recommendation made by a master concerning the support

of a dependent child must be made in accordance with certain procedural requirements. (NRS 425.382, 425.383, 425.3836, 425.540)

Sections 6, 11, 12, 19 and 21 of this bill delete provisions of existing law that require a master, after making a recommendation for the support of a dependent child, or a district court to ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is paid are placed in the records relating to the matter and remain confidential. (NRS 425.3828, 425.3844, 425.3855, 125.230, 125B.055)

Section 8 of this bill authorizes a master who conducts a hearing relating to the support of a dependent child to conduct the hearing by telephone or by any audiovisual or other electronic means outside the judicial district in which the master is appointed. (NRS 425.3832)

Section 9 of this bill provides that if a district court reviews a recommendation of a master concerning the support of a dependent child, the review must be conducted on the record of the case before the master. ~~It~~ **unless the district court, in extraordinary circumstances as determined by the district court, grants a trial de novo.** (NRS 425.3834)

Under existing law, a master who makes a recommendation concerning the support of a dependent child must furnish the recommendation to each party in the case before the master. Each party may then file an objection to the recommendation within 10 days after receiving the recommendation. If a notice of objection is not filed, the district court must accept the recommendation and may enter judgment thereon. **Section 11** of this bill provides that if a notice of objection is not filed, the recommendation of the master shall be deemed approved by the district court and the clerk of the court may file the recommendation. (NRS 425.3844)

Section 13 of this bill provides that a financial institution which is doing business in Nevada and which receives notification of a lien against a responsible parent from an agency for the enforcement of child support located in another state is required to encumber all assets held by the financial institution on behalf of the responsible parent and surrender those assets upon the enforcement of the lien. **Section 13** also provides immunity from liability for the agency located in another state for disclosing information and providing assets to certain other persons. (NRS 425.460)

Sections 16 and 17 of this bill set forth penalties that may be imposed against an employer who fails to deliver to the appropriate enforcing authority any money that the employer is required to withhold from an employee's wages for child support owed by the employee. The penalties include, without limitation, the payment of punitive damages to the person to whom the child support is owed. (NRS 31A.095, 31A.120)

Section 18 of this bill deletes provisions of existing law that require a court that grants a decree of divorce to ensure that the social security numbers of both parties to the decree are provided to the Division. (NRS 125.130)

Section 22 of this bill revises provisions governing the amounts paid by a parent for medical support for a child pursuant to a court order requiring the payment of that support. (NRS 125B.085)

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

Section 1. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county may participate in the Program. If a county participates in the Program, the county shall pay the cost of the Program in that county. Any services provided by the county under the Program must be provided in accordance with:

(a) Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any regulations adopted pursuant thereto;

(b) Any regulations adopted pursuant to NRS 425.365; and

(c) A contract entered into with the Division for that purpose.

2. If a county participates in the Program pursuant to subsection 1, the county may, on or before September 1 of each even-numbered year, elect to withdraw from the Program by submitting a notice of withdrawal to the Division. If a county submits a notice of withdrawal pursuant to this subsection, the withdrawal becomes effective on July 1 of the next following year.

Sec. 2. ~~NRS 425.360 is hereby amended to read as follows:~~

~~425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, [whether or not] **regardless of:**~~

~~(a) Any court order for custody or support to the contrary, including, **without limitation, an order for joint physical custody; or**~~

~~(b) Whether the parent received prior notice that his child was receiving public assistance.~~

~~2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including, **without limitation,** an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. § 1167(1), service benefit plan, self-insured plan or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for~~

~~spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessities for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.~~

~~3.—If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.~~

~~4.—Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.~~

~~5.—If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:~~

~~(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and~~

~~(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.~~

~~6.—As used in this section, “joint physical custody” means the physical custody of a dependent child for which the time spent by the dependent child with each responsible parent or with the responsible parent and a custodian of the child is equal. (Deleted by amendment.)~~

Sec. 3. NRS 425.365 is hereby amended to read as follows:

425.365 **1.** The Administrator *or his designee is responsible for and shall supervise the Program, subject to administrative supervision by the Director of the Department of Health and Human Services.*

2. *The Administrator* may adopt such regulations and take such actions as are necessary to carry out the provisions of this chapter.

Sec. 4. NRS 425.370 is hereby amended to read as follows:

425.370 *Subject to administrative supervision by the Director of the Department of Health and Human Services pursuant to NRS 425.365:*

1. Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child.

2. As to any other child, the Division and the prosecuting attorney shall, when such action is required by the Social Security Act , ~~42~~ 42 U.S.C. §§ 301 et seq. , ~~42~~ take appropriate action to carry out the Program.

Sec. 5. NRS 425.382 is hereby amended to read as follows:

425.382 1. Except as otherwise provided in NRS 425.346, the Chief may proceed pursuant to NRS 425.3822 to 425.3852, inclusive, after:

- (a) Payment of public assistance by the Division; or
- (b) Receipt of a request for services to carry out the Program.

2. Subject to approval by the district court ~~42~~ *pursuant to NRS 425.3844*, a master may:

(a) Take any action authorized pursuant to chapter 130 of NRS, including any of the actions described in subsection 2 of NRS 130.305.

(b) Except as otherwise provided in chapter 130 of NRS and NRS 425.346:

(1) Issue and enforce an order for the support of a dependent child, and modify or adjust such an order in accordance with NRS 125B.145;

(2) Require coverage for health care of a dependent child;

(3) Establish paternity;

(4) Order a responsible parent to comply with an order for the support of a dependent child, specifying the amount and the manner of compliance;

(5) Order the withholding of income;

(6) Determine the amount of any arrearages and specify a method of payment;

(7) Enforce orders by civil or criminal contempt, or both;

(8) Set aside property for satisfaction of an order for the support of a dependent child;

(9) Place liens and order execution on the property of the responsible parent;

(10) Order a responsible parent to keep the master informed of his current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

(11) Issue a bench warrant for a responsible parent who has failed after proper notice to appear at a hearing ordered by the master and enter the bench warrant in any local and state computer system for criminal warrants;

(12) Order the responsible parent to seek appropriate employment by specified methods;

(13) Order the responsible parent to participate in a program intended to resolve issues that prevent the responsible parent from obtaining employment, including, without limitation, a program for the treatment of substance abuse or a program to address mental health issues;

(14) Upon the request of the Division, require a responsible parent to:

(I) Pay any support owed in accordance with a plan approved by the Division; or

(II) Participate in such work activities, as that term is defined in 42 U.S.C. § 607(d), as the Division deems appropriate;

(15) Award reasonable attorney's fees and other fees and costs; and

(16) Grant any other available remedy.

Sec. 6. NRS 425.3828 is hereby amended to read as follows:

425.3828 1. If a written response setting forth objections and requesting a hearing is received by the office issuing the notice and finding of financial responsibility within the specified period, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail.

2. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall:

(a) Include in that recommendation:

(1) If the paternity of the dependent child is established by the recommendation, a declaration of that fact.

(2) The amount of monthly support to be paid, including directions concerning the manner of payment.

(3) The amount of arrearages owed.

(4) Whether coverage for health care must be provided for the dependent child.

(5) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[(1)]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(6) The names of the parents or legal guardians of the child.

(7) The name of the person to whom, and the name and date of birth of the dependent child for whom, support is to be paid.

(8) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(9) A statement that objections to the recommendation may be filed with the district court and served upon the other party within 10 days after receipt of the recommendation.

(b) Ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is to be paid are ~~[-~~

~~(1) Provided]~~ **provided** to the enforcing authority.

~~[(2) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

3. The parent must be sent a copy of the recommendation for the support of a dependent child by regular mail addressed to the last known address of

the parent, or if applicable, the last known address of the attorney for the parent.

4. The recommendation for the support of a dependent child is final upon approval by the district court pursuant to NRS 425.3844. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, and the master enters a recommendation for the support of a dependent child, the court may grant relief from the recommendation on the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of Civil Procedure.

Sec. 7. NRS 425.383 is hereby amended to read as follows:

425.383 1. After the entry of a recommendation for the support of a dependent child by the master that has been approved by the district court ~~and~~ **pursuant to NRS 425.3844**, or after entry of an order for the support of a dependent child by a district court regarding which the Chief is authorized to proceed pursuant to NRS 425.382 to 425.3852, inclusive, the responsible parent, the person entitled to support or the enforcing authority may move for the amount of the child support being enforced to be modified or adjusted in accordance with NRS 125B.145.

2. The motion must:

- (a) Be in writing.
- (b) Set out the reasons for the modification or adjustment.
- (c) State the address of the moving party.
- (d) Be served by the moving party upon the responsible parent or the person entitled to support, as appropriate, by first-class mail to the last known address of that person.

3. The moving party shall mail or deliver a copy of the motion and the original return of service to the Chief.

4. The Chief shall set the matter for a hearing within 30 days after the date of receipt of the motion unless a stipulated agreement between the parties is reached. The Chief shall send to the parties and person with physical custody of the dependent child a notice of the hearing by first-class mail to the last known address of those persons.

5. A motion for modification or adjustment requested pursuant to this section does not prohibit the Chief from enforcing and collecting upon the existing order for support of a dependent child unless so ordered by the district court.

6. The only support payments that may be modified or adjusted pursuant to this section are monthly support payments that:

- (a) A court of this State has jurisdiction to modify pursuant to chapter 130 of NRS; and

(b) Accrue after the moving party serves notice that a motion has been filed for modification or adjustment.

7. The party requesting the modification or adjustment has the burden of showing a change of circumstances and good cause for the modification or adjustment, unless the request is filed in accordance with subsection 1 of NRS 125B.145.

Sec. 8. NRS 425.3832 is hereby amended to read as follows:

425.3832 1. Except as otherwise provided in this chapter, a hearing conducted pursuant to NRS 425.382 to 425.3852, inclusive, must be conducted in accordance with the provisions of this section by a qualified master appointed pursuant to NRS 425.381.

2. Subpoenas may be issued by:

(a) The master.

(b) The attorney of record for the office.

↳ Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS. A witness appearing pursuant to a subpoena, other than a party or an officer or employee of the Chief, is entitled to receive the fees and payment for mileage prescribed for a witness in a civil action.

3. Except as otherwise provided in this section, the master need not observe strict rules of evidence ~~§~~ but shall apply those rules of evidence prescribed in NRS 233B.123.

4. The affidavit of any party who resides outside of the judicial district is admissible as evidence regarding the duty of support, any arrearages and the establishment of paternity. The master may continue the hearing to allow procedures for discovery regarding any matter set forth in the affidavit.

5. The physical presence of a person seeking the establishment, enforcement, modification or adjustment of an order for the support of a dependent child or the establishment of paternity is not required.

6. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under NRS 51.065 if given in person, is admissible in evidence if given under oath by a party or witness residing outside of the judicial district.

7. A copy of the record of payments for the support of a dependent child, certified as a true copy of the original by the custodian of the record, may be forwarded to the master. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.

8. Copies of bills for testing for paternity, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before the hearing, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

9. Documentary evidence transmitted from outside of the judicial district by telephone, telecopier or other means that do not provide an original

writing may not be excluded from evidence on an objection based on the means of transmission.

10. The master may ~~permit~~ :

(a) **Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which he is appointed.**

(b) **Permit** a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location outside of the judicial district.

↪ The master shall cooperate with courts outside of the judicial district in designating an appropriate location for the **hearing**, deposition or testimony.

11. If a party called to testify at a hearing refuses to answer a question on the ground that the testimony may be self-incriminating, the master may draw an adverse inference from the refusal.

12. A privilege against the disclosure of communications between husband and wife does not apply.

13. The defense of immunity based on the relationship of husband and wife or parent and child does not apply.

Sec. 9. NRS 425.3834 is hereby amended to read as follows:

425.3834 1. Upon issuance by a district court of an order approving a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, the Chief shall enforce and collect upon the order, including arrearages.

2. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, is final upon approval by the district court pursuant to NRS 425.3844. Upon such approval, the recommendation is in full force and effect while any judicial review is pending unless the recommendation is stayed by the district court.

3. The district court may review ~~[pursuant to the rules adopted therefor by the district judges of the judicial district in which the court is located,]~~ a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive. ***If a review is conducted, the district court shall :***

(a) Shall, except as otherwise provided in paragraph (b), review the recommendation on the record of the case before the master.

(b) May, in extraordinary circumstances as determined by the district court, grant a trial de novo.

Sec. 10. NRS 425.3836 is hereby amended to read as follows:

425.3836 1. After the issuance of an order for the support of a dependent child by a court, the Chief may issue a notice of intent to enforce the order. The notice must be served upon the responsible parent in the manner prescribed for service of summons in a civil action or mailed to the responsible parent by certified mail, restricted delivery, with return receipt requested.

2. The notice must include:

(a) The names of the person to whom support is to be paid and the dependent child for whom support is to be paid.

(b) The amount of monthly support the responsible parent is required to pay by the order for support.

(c) A statement of the arrearages owed pursuant to the order for support.

(d) A demand that the responsible parent make full payment to the enforcing authority within 14 days after the receipt or service of the notice.

(e) A statement that the responsible parent may be required to provide coverage for the health care of the dependent child when coverage is available to the parent at a reasonable cost.

(f) A statement of any requirements the Division will request pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~;~~ regarding a plan for the payment of support by the responsible parent or the participation of the responsible parent in work activities.

(g) A statement that if the responsible parent objects to any part of the notice of intent to enforce the order, he must send to the office that issued the notice a written response within 14 days after the date of receipt of service that sets forth any objections and includes a request for a hearing.

(h) A statement that if full payment is not received within 14 days or a hearing has not been requested in the manner provided in paragraph (g), the Chief is entitled to enforce the order and that the property of the responsible parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(i) A reference to NRS 425.382 to 425.3852, inclusive.

(j) A statement that the responsible parent is responsible for notifying the office of any change of address or employment.

(k) A statement that if the responsible parent has any questions, he may contact the appropriate office or consult an attorney.

(l) Such other information as the Chief finds appropriate.

3. If a written response setting forth objections and requesting a hearing is received within the specified period by the office issuing the notice of intent to enforce the order, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the responsible parent by regular mail. If a written response and request for hearing is not received within the specified period by the office issuing the notice, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall include in that recommendation:

(a) The amount of monthly support to be enforced, including directions concerning the manner of payment.

(b) The amount of arrearages owed and the manner of payment.

(c) Whether coverage for health care must be provided for the dependent child.

(d) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~;~~ regarding a plan for the

payment of support by the parent or the participation of the parent in work activities.

(e) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, the withholding of wages, garnishment, liens and execution on liens.

4. After the district court approves the recommendation for the support of a dependent child, the recommendation is final. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. This section does not prevent the Chief from using other available remedies for the enforcement of an obligation for the support of a dependent child at any time.

6. The master may hold a hearing to enforce a recommendation for the support of a dependent child after the recommendation has been entered and approved by the district court ~~[]~~ *pursuant to NRS 425.3844*. The master may enter a finding that the parent has not complied with the order of the court and may recommend to the district court that the parent be held in contempt of court. The finding and recommendation is effective upon review and approval of the district court.

Sec. 11. NRS 425.3844 is hereby amended to read as follows:

425.3844 1. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, must be furnished to each party or his attorney at the conclusion of the proceedings or as soon thereafter as possible.

2. Within 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation. The notice must include:

- (a) A copy of the master's recommendation;
- (b) The results of any blood tests or tests for genetic identification examined by the master;
- (c) A concise statement setting forth the reasons that the party disagrees with the master's recommendation, including any affirmative defenses that must be pleaded pursuant to the Nevada Rules of Civil Procedure;
- (d) A statement of the relief requested;
- (e) The notice and finding of financial responsibility if the Chief issued such a notice and finding; and
- (f) Any other relevant documents.

3. ~~[The district court shall:~~

~~(a)]~~ If, *within 10 days after receipt of the recommendation*, a notice of objection is ~~[not]~~:

~~(a) Not~~ filed, ~~[accept]~~ the recommendation entered by the master ~~[including a recommendation establishing paternity, unless clearly erroneous,]~~ *shall be deemed approved by the district court, and the clerk of the district*

court may file the recommendation pursuant to subsection 7 and judgment may be entered thereon; or

(b) ~~[[If a notice of objection is filed within the 10-day period,]~~ **Filed, the district court shall** review the matter pursuant to NRS 425.3834.

4. A party who receives a notice of objection pursuant to subsection 2 is not required to file an answer to that notice. The district court shall review each objection contained in the notice.

5. If a notice of objection includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity. The obligation for the support of the child continues to accrue during the consideration of the determination of paternity and must be collected as arrears after the completion of the trial if the court approves the recommendation of the master.

6. If a recommendation entered by a master, ~~[[pursuant to NRS 425.382 to 425.3852, inclusive,]~~ including a recommendation establishing paternity, **is deemed approved by the district court pursuant to paragraph (a) of subsection 3 and the recommendation** modifies or adjusts a previous order for support issued by any district court in this State, that district court ~~[[shall review the recommendation and approve or reject the recommendation issued]]~~ **must be notified of the recommendation** by the master.

7. Upon approval by the district court of a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, a copy of the recommendation, with the approval of the court endorsed thereon, must be filed:

(a) In the office of the clerk of the district court;

(b) If the order of the district court approving the recommendation of the master modifies or adjusts a previous order issued by any district court in this State, with the original order in the office of the clerk of that district court; and

(c) With any court that conducts a proceeding related thereto pursuant to the provisions of chapter 130 of NRS.

8. A district court that approves a recommendation pursuant to this section shall ensure that, before the recommendation is filed pursuant to subsection 7, the social security numbers of the parents or legal guardians of the child are ~~[-~~

~~(a) Provided]~~ **provided** to the enforcing authority.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

9. Upon the approval and filing of the recommendation as provided in subsection 7, the recommendation has the force, effect and attributes of an order or decree of the district court, including, but not limited to,

enforcement by supplementary proceedings, contempt of court proceedings, writs of execution, liens and writs of garnishment.

Sec. 12. NRS 425.3855 is hereby amended to read as follows:

425.3855 A district court that enters an order pursuant to NRS 425.382 to 425.3852, inclusive, or an order approving a recommendation for the support of a dependent child made by a master shall ensure that the social security numbers of the parents or legal guardians of the child are ~~[-~~

~~1.—Provided]~~ **provided** to the enforcing authority.

~~[2.—Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

Sec. 13. NRS 425.460 is hereby amended to read as follows:

425.460 1. The Administrator shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. A financial institution doing business in this State shall:

(a) Cooperate with the Administrator in carrying out subsection 1.

(b) Use the system to provide to the Division for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification, and other identifying information for each responsible parent who maintains an account at the financial institution, as identified by the Division by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the Division *or an agency for the enforcement of child support located in another state* of:

(1) Notification of a lien against a responsible parent which:

(I) Arises pursuant to NRS 125B.142; or

(II) Is entitled to full faith and credit pursuant to NRS 125B.144,

↪ encumber ~~[such]~~ **all** assets held by the financial institution on behalf of the responsible parent ~~[as may be required by the Chief.]~~ **and surrender those assets upon the enforcement of the lien pursuant to those sections.**

(2) A notice of attachment pursuant to subsection 2 of NRS 425.470, surrender to the Chief such assets held by the financial institution on behalf of the responsible parent as may be required by the Chief.

(d) Except as otherwise provided in paragraph (c), in response to the receipt of notice of a lien which is entitled to full faith and credit pursuant to NRS 125B.144 or notice of a levy on such a lien, encumber or surrender, as the case may be, such assets held by the financial institution on behalf of the responsible parent as may be required to enforce the lien.

↪ A financial institution doing business in this State which receives from the Division *or an agency for the enforcement of child support located in another state* a notice of lien, notice of attachment or notice of levy on a lien is not required to encumber or surrender any assets received by the financial

institution on behalf of the responsible parent after the financial institution received the notice of lien, notice of attachment or notice of levy on a lien.

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

(a) Any disclosure of information to the Division *or an agency for the enforcement of child support located in another state* pursuant to this section.

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

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

4. If a court issues an order to return to a responsible parent any assets surrendered by a financial institution pursuant to subsection 2, the Division *or an agency for the enforcement of child support located in another state* is not liable to the responsible parent for any of those assets that have been provided to another person or agency in accordance with the order for the payment of support.

Sec. 14. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person:

(a) Has 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) Is in arrears in the payment for the support of one or more children,
 ↪ and the district court issues an order approving the recommendation of the master ~~[]~~ *pursuant to NRS 425.3844*, the court shall provide a copy of the order to all agencies that issue professional, occupational or recreational licenses, certificates or permits.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional, occupational or recreational license, certificate or permit to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, the professional, occupational or recreational licenses issued to the person by that agency will be automatically suspended. Such an order must not apply to a license, certificate or permit issued by the Department of Wildlife or the State Land Registrar if that license, certificate or permit expires less than 6 months after it is issued.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

- (1) A copy of the court order;
- (2) A statement of the amount of the arrearage; and
- (3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 15. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person who is issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS:

(a) Has 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) Is in arrears in the payment for the support of one or more children, and the district court issues an order approving the recommendation of the master ~~[] pursuant to NRS 425.3844~~, the court shall provide a copy of the order to all agencies that issue professional or occupational licenses, certificates or permits pursuant to title 54 of NRS.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, any professional or occupational license, certificate or permit issued pursuant to title 54 of NRS to the person by that agency will be automatically suspended.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

- (1) A copy of the court order;
- (2) A statement of the amount of the arrearage; and
- (3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 16. NRS 31A.095 is hereby amended to read as follows:

31A.095 1. If an employer ~~[wrongfully]~~:

(a) **Wrongfully** refuses to withhold income as required pursuant to NRS 31A.025 to 31A.190, inclusive, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of NRS 31A.070 ~~[]~~;

(b) *Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~knowingly~~*

(c) *Knowingly* misrepresents the income of an employee,
 ↳ the enforcing authority may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalty prescribed in subsection 2 of NRS 31A.120.

2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required, *failed to deliver money to the enforcing authority as required* or knowingly misrepresented an employee's income:

(a) May order the employer to comply with the requirements of NRS 31A.025 to 31A.190, inclusive;

(b) May order the employer to provide accurate information concerning the employee's income;

(c) May fine the employer pursuant to subsection 2 of NRS 31A.120; and

(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the obligor's income ~~[-]~~ *or failed to deliver to the enforcing authority.*

Sec. 17. NRS 31A.120 is hereby amended to read as follows:

31A.120 1. It is unlawful for an employer to use the withholding of income to collect an obligation of support as a basis for refusing to hire a potential employee, discharging the employee or taking disciplinary action against him. Any employer who violates this section shall hire or reinstate the employee with no loss of pay or benefits, is liable for any payments of support not withheld ~~[-]~~ and shall be fined \$1,000. If an employee prevails in an action based on this section, the employer is liable, in an amount not less than \$2,500, for payment of the employee's costs and attorney's fees incurred in that action.

2. If an employer ~~wrongfully~~:

(a) *Wrongfully* refuses to withhold from the income of an obligor as required pursuant to NRS 31A.025 to 31A.190, inclusive ~~[-]~~;

(b) *Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~knowingly~~*

(c) *Knowingly* misrepresents the income of the employee,
 ↳ he shall pay the amount he refused to withhold *or failed to deliver* to the enforcing authority and may be ordered to pay punitive damages to the person to whom support is owed in an amount not to exceed \$1,000 for each pay period he failed to withhold income as required, *failed to deliver money to the enforcing authority as required* or knowingly misrepresented the income of the employee.

Sec. 18. NRS 125.130 is hereby amended to read as follows:

125.130 1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.

2. Whenever a decree of divorce from the bonds of matrimony is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.

3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are ~~[-~~ (a) ~~Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(b) Placed]~~ **placed** in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of the wife to any former name which she has legally borne.

Sec. 19. NRS 125.230 is hereby amended to read as follows:

125.230 1. The court in such actions may make such preliminary and final orders as it may deem proper for the custody, control and support of any minor child or children of the parties.

2. A court that enters an order pursuant to subsection 1 for the support of any minor child or children shall ensure that the social security numbers of the parties are ~~[-~~

~~(a) Provided]~~ **provided** to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

Sec. 20. ~~[NRS 125.510 is hereby amended to read as follows:~~

~~125.510 1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section, [and] chapter 130 of NRS [-] and NRS 125.360:~~

~~(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and~~

~~(b) At any time, modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.~~

~~The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.~~

~~2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.~~

~~3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to the jurisdictional~~

requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.

~~4. A party may proceed pursuant to this section without counsel.~~

~~5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.~~

~~6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS and must contain the following language:~~

~~PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.~~

~~7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention *on the Civil Aspects of International Child Abduction* of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.~~

~~8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:~~

~~(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.~~

~~(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption~~

~~that the parent poses an imminent risk of wrongfully removing or concealing the child.~~

~~9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:~~

~~(a) Upon the death of the person to whom the order was directed; or
(b) When the child reaches 18 years of age if he is no longer enrolled in high school, or otherwise, when he reaches 19 years of age.~~

~~10. As used in this section, a parent has "significant commitments in a foreign country" if he:~~

~~(a) Is a citizen of a foreign country;
(b) Possesses a passport in his name from a foreign country;
(c) Became a citizen of the United States after marrying the other parent of the child; or~~

~~(d) Frequently travels to a foreign country.] (Deleted by amendment.)~~

Sec. 21. NRS 125B.055 is hereby amended to read as follows:

125B.055 1. A court that, on or after October 1, 1998, issues or modifies an order in this State for the support of a child shall ~~[-~~

~~(a) Obtain] obtain~~ and provide to the Division of Welfare and Supportive Services of the Department of Health and Human Services such information regarding the order as the Division of Welfare and Supportive Services determines is necessary to carry out the provisions of 42 U.S.C. § 654a.

~~[(b) Ensure that the social security numbers of the child and the parents of the child are placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

2. Within 10 days after a court of this State issues an order for the support of a child, each party to the cause of action shall file with the ~~[court that issued the order and the]~~ Division of Welfare and Supportive Services:

- (a) His social security number;
- (b) His residential and mailing addresses;
- (c) His telephone number;
- (d) His driver's license number; and
- (e) The name, address and telephone number of his employer.

↪ Each party shall update the information filed with the ~~[court and the]~~ Division of Welfare and Supportive Services pursuant to this subsection within 10 days after that information becomes inaccurate.

3. The Division of Welfare and Supportive Services shall adopt regulations specifying the particular information required to be provided pursuant to subsection 1 to carry out the provisions of 42 U.S.C. § 654a.

Sec. 22. NRS 125B.085 is hereby amended to read as follows:

125B.085 1. Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after June 2, 2007, must include a provision specifying that one or both

parents are required to provide medical support for the child and any details relating to that requirement.

2. As used in this section, “medical support” includes, without limitation, coverage for health care under a plan of insurance ~~that~~ **that is reasonable in cost and accessible**, including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses.

For the purpose of this subsection:

(a) Payments of cash for medical support or the costs of coverage for health care under a plan of insurance are “reasonable in cost” if:

(1) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(2) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of the parent.

(b) Coverage for health care under a plan of insurance is “accessible” if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

Sec. 23. (Deleted by amendment.)

Sec. 24. 1. This section and sections 1 to 14, inclusive, and 16 to 23, inclusive, of this act become effective on October 1, 2009.

2. Section 14 of this act expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 15 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 701 to Assembly Bill No. 101.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Assembly Bill No. 82.

Bill read third time.

Roll call on Assembly Bill No. 82:

YEAS—23.

NAYS—Aizley, Anderson, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hardy, Manendo, McArthur, Munford, Ohrenschall, Settlemeyer, Stewart, Woodbury—18.

EXCUSED—Arberry.

Assembly Bill No. 82 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 114.

Bill read third time.

Roll call on Senate Bill No. 114:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 114 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Ocegüera moved that the Assembly recess until 10 p.m.

Motion carried.

Assembly in recess at 8:27 p.m.

ASSEMBLY IN SESSION

At 11:18 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 146, Amendment No. 875, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 426.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 744 to Senate Bill No. 251; Assembly Amendment No. 731 to Senate Bill No. 253.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 146.

The following Senate amendment was read:

Amendment No. 875.

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.] (Deleted by amendment.)*~~

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 in the amount of \$200 ~~plus an additional \$200 for each additional location in this State of his places of business;~~

(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 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. *The Secretary of State shall deposit all money received pursuant to this chapter with the State Treasurer for credit 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~~

~~(e) 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~~ *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 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 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 become effective upon passage and approval.

2. Sections 1 to 45, inclusive, 46 and 46.5 of this act become effective:

(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

(b) On 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.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 146.

Remarks by Assemblymen Leslie, Christensen, and Anderson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 370.

The following Senate amendment was read:

Amendment No. 598.

AN ACT relating to pharmacies; providing for the establishment of remote sites, satellite consultation sites and telepharmacies; requiring the State Board of Pharmacy to adopt regulations for the operation of such establishments ~~and~~ **and the governance of dispensing practitioners and dispensing technicians**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the issuance of a license to an applicant to conduct a pharmacy upon compliance with all licensing requirements. (NRS 639.231) This bill authorizes the establishment of remote sites and satellite consultation sites for the dispensing of prescriptions, and telepharmacies, which are connected to such sites via computer link, video link and audio link to enable a registered pharmacist **or a dispensing practitioner** at the telepharmacy to oversee the dispensing of prescriptions to patients at a remote site or satellite consultation site.

Section 6 of this bill requires a remote site or satellite consultation site to be located at least 50 miles from the nearest pharmacy and in a service area with a total population of less than 2,000. **Section 6** also authorizes such sites to be operated by a pharmaceutical technician ~~or~~ **or a dispensing technician**. **Section 6** further requires the State Board of Pharmacy to adopt regulations which establish the manner of determining a "service area." **Sections 8 and 9** of this bill exempt those sites from the requirement that every pharmacy must be managed by a registered pharmacist. (NRS 639.220, 639.284)

Section 5 of this bill requires the State Board of Pharmacy to adopt regulations for the operation of remote sites, satellite consultation sites and telepharmacies ~~and~~ **and for the definition, registration, discipline, qualifications, powers and duties of dispensing practitioners and dispensing technicians**.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2~~ **1.5** to 6, inclusive, of this act.

Sec. 1.5. "Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

Sec. 2. "Remote site" means ~~or~~ ;

1. A pharmacy staffed by a pharmaceutical technician and equipped to facilitate communicative access to a pharmacy and its registered pharmacists ; or

2. An office:

(a) Of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center; and

(b) That is:

(1) Staffed by a dispensing technician; and

(2) Equipped to facilitate communicative access to the dispensing practitioner,

↪ via computer link, video link and audio link during regular business hours.

Sec. 3. "Satellite consultation site" means a site that only dispenses filled prescriptions which are delivered to that site after the prescriptions are prepared ~~at that~~ :

1. At a pharmacy ~~and delivered to that site and~~ where a registered pharmacist ~~at the pharmacy that prepared the prescription~~ provides consultation to patients via computer link, video link and audio link during regular business hours ~~at that~~; or

2. At an office:

(a) Of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center; and

(b) Where the dispensing practitioner provides consultation to patients via computer link, video link and audio link during regular business hours.

Sec. 4. "Telepharmacy" means ~~at that~~ :

1. A pharmacy ; or

2. An office of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center,
↪ that is accessible by a remote site or a satellite consultation site via computer link, video link and audio link.

Sec. 5. The Board shall adopt regulations ~~at that~~ :

1. As are necessary for the safe and efficient operation of remote sites, satellite consultation sites and telepharmacies ~~at that~~; and

2. To define the terms "dispensing practitioner" and "dispensing technician," to provide for the registration and discipline of dispensing practitioners and dispensing technicians, and to set forth the qualifications, powers and duties of dispensing practitioners and dispensing technicians.

Sec. 6. 1. In addition to the requirements set forth in this chapter and any other specific statute, a remote site or satellite consultation site must be located:

(a) At least 50 miles or more from the nearest pharmacy; and

(b) In a service area with a total population of less than 2,000.

2. A remote site or satellite consultation site may be operated by ~~at that~~ :

(a) A pharmaceutical technician without the physical presence of a managing pharmacist, except that the managing pharmacist of the telepharmacy shall also be deemed the managing pharmacist of the remote site or satellite consultation site ~~at that~~; or

(b) A dispensing technician without the physical presence of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center, except that the dispensing practitioner shall also be deemed the managing pharmacist of the remote site or satellite consultation site.

3. The Board shall adopt regulations for the purposes of this section, which establish the manner of determining a “service area.” Such a “service area” must be a geographical area of between 5 and 10 miles in radius. In adopting the regulations, the Board may consider, without limitation, the ease or difficulty of access to the nearest pharmacy and the availability of roadways.

Sec. 7. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, **and sections ~~2, 3 and~~ 1.5 to 4, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 639.220 is hereby amended to read as follows:

639.220 1. Except as otherwise provided in NRS 639.2324, 639.2326 ~~and~~, 639.2327 ~~and~~ **and section 6 of this act**, each pharmacy must be managed by a registered pharmacist, approved by the Board, who is responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy.

2. Except as otherwise provided in NRS 639.2321, if the managing pharmacist is the only registered pharmacist employed in the pharmacy, the Board may authorize his absence each day for a total period of not to exceed 2 hours for the purpose of taking meals if:

(a) A registered pharmacist is on call during his absence;

(b) A sign, as prescribed by regulations of the Board, is posted for public view in the pharmacy indicating the absence of the pharmacist and the hours of his absence; and

(c) All drugs, poisons, chemical and restricted devices are kept safe in a manner prescribed by regulations of the Board.

↪ The authorization required from the Board must be in writing and be retained in the pharmacy and available for inspection.

3. Except as otherwise provided in this subsection ~~and~~ **and section 6 of this act:**

(a) A person shall not act as a managing pharmacist for more than one licensed pharmacy.

(b) Each managing pharmacist shall be on duty in the pharmacy and active in the management of the pharmacy full-time, but he need not be present during the time the pharmacy is open for business if he designates another pharmacist employed in the pharmacy to assume his duties in his absence.

(c) The managing pharmacist is responsible for the activities of his designee.

↪ A waiver from the limitation set forth in paragraph (a) may be granted by the Board to the managing pharmacist of a pharmacy located in a hospital with fewer than 100 beds or in a correctional institution housing fewer than 1,500 inmates.

4. The Board must be notified before there is a change in the managing pharmacist.

Sec. 9. NRS 639.284 is hereby amended to read as follows:

639.284 ~~[Any]~~ ***Except as otherwise provided in section 6 of this act, any person who:***

1. Being the licensed proprietor of a pharmacy, fails to place a registered pharmacist in charge of such pharmacy, or permits the compounding or dispensing of drugs or prescriptions, or the selling of drugs, poisons or devices, the sale of which is restricted by the provisions of this chapter, by any person other than a registered pharmacist or an intern pharmacist, is guilty of a misdemeanor.

2. Is not a registered pharmacist and who takes charge of or acts as manager of any pharmacy, compounds or dispenses any prescription, or sells any drug, poison or device, the sale of which is restricted by the provisions of this chapter, is guilty of a misdemeanor.

Sec. 10. The State Board of Pharmacy shall, on or before January 1, 2010, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 11. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 370.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Senate Bill No. 245.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Senate Bill No. 245:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 245 having received a constitutional majority,

Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 411.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Senate Bill No. 411:

YEAS—24.

NAYS—Aizley, Bobzien, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, Leslie, McArthur, Pierce, Settlemeyer, Stewart, Woodbury—17.

EXCUSED—Arberry.

Senate Bill No. 411 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 Senate Bills Nos. 73 and 183 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 11:31 p.m.

ASSEMBLY IN SESSION

At 11:35 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved to rescind the action whereby the Assembly did not concur with Senate Amendment No. 728 to Assembly Bill No. 471.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 471.

The following Senate amendment was read:

Amendment No. 728.

AN ACT relating to real property; providing that a deficiency in payment on a mortgage, deed of trust or other encumbrance may be cured under certain circumstances before foreclosure; providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides a right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale at any time not later than 5 days before the date of sale.

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary

of the deed of trust. (NRS 40.455) **Section 2** of this bill provides that **if the judgment creditor or the beneficiary of the deed of trust is a financial institution,** a court may not award a deficiency judgment to ~~for~~ the judgment creditor or ~~for~~ the beneficiary of ~~for~~ the deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 3 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

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

Section 1. 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. *At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.*

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

~~{4.}~~ 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. 2. NRS 40.455 is hereby amended to read as follows:

40.455 1. ~~Upon~~ ***Except as otherwise provided in subsection 3, upon*** application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the

recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. ~~The~~ **If the judgment creditor or the beneficiary of the deed of trust is a financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:**

(a) *The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;*

(b) *The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;*

(c) *The debtor or grantor continuously occupied the real property as his principal residence after securing the mortgage or deed of trust; and*

(d) *The debtor or grantor did not refinance the mortgage or deed of trust after securing it.*

4. **As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.**

Sec. 3. The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 471.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 242.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

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 11:39 p.m.

ASSEMBLY IN SESSION

At 11:55 p.m.
Madam Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 16, 26, 56, 89, 100, 109, 129, 154, 165, 179, 191, 192, 193, 199, 204, 208, 220, 233, 251, 263, 267, 274, 307, 326, 333, 348, 402, 414, 446, 487, 493, 530, 531; Senate Bills Nos. 8, 100, 121, 165, 172, 186, 266, 268, 339, 340, 361, 362, 365, 377, 414; Senate Joint Resolution No. 1.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Sandy Miller Elementary School: Lourdes Esquivel, Natalie Salgado, Brittany Mayo, Katherine Garrison, Sasha Palmer, Adrianna Amarillas, Elisa Alvarez, Vanelly Becera, Jordan Cosselman, Hannah Ariesen-Fry, Rhiannon Campbell, Cassandra Rodgers, India Rose Hill, Simone Reese, Gabriela Weiss, Liliana Marrero, Jasmine Rivera, Angelica Ayala, Jerrika Scott, Jessica Carter, Riley Kenerly, Ayla Gelsinger, Raven Thompson, Deja Davis, Virginia Virula, Paola Salazar, Cassandra Bueno, Marlene Bonilla, Ingrid Tobar, Natalie Mejia, Ralaysia White, Carmen Bushorn, Hope Young, Johanna Guerro, Genevieve Velez, Bailey Tower, Norma Tolentino, DulceMaria Solian, Emily Solis-Diaz, Chloe Hartman, Brenda Peralta, Britni Perkins, Alexis Nehls, Paris Godfrey, Brittany Jackson, Alexis Robinson, Katy McBrayer, Carlos Orozco, Enrique DeLaCruz, Salvador Molina, Sawyer Pearson, Nick Stephenson, Sergio Rubio, Jalen Pitts, Victor Casillas, Alfredo Esquivel, Jesus Cepeda, Jorge Espinoza, Nevic Perkins, Adriel Roncal, Jeffrey Gonzalez, Ulises Cabrera, Rafael Gaucin, Leonardo Lopez, Carlos Hernandez, Helaman Song, Jaegar McDowell, James Larson, Jimmie Anderson, Juan Romero, Miguel Mireles, Jesus Murillo, Rigoberto Salazar, Kinnon McPeak, Kalvin Major, Spencer Leon, Thomas Sanders, Rene' Morales-Marenco, Marcos Donis, Juan Moreno, Raul Rodriguez, Serjio Sacasas, Kevin Cobian, Andrew Olivares, Eber Basilio, Emmanuel Lozano, Alfred Morales, Isela Esquivel, Evelyn Hernandez, Brenda Pearson, Maria Fausto, Raena McDowell, Helen McPeak, Monica Cosselman, Rosie Campbell, Gwendolyn Godfrey, Mona Robinson, Bridgett Scott, Kathy Kenerly, Philana Hooker, Maria Diaz-Ibarra, Melinda Sacasas, Isias Lozano Jr., Juan Moreno, Juan Roncal, Jorge Espinoza, Rene' Moralez-Perez, Michael Blackmon, Ventura Esquivel, Spencer Larson, Barbara Misday, Joe Barazza, Cydnie Jorgenson, Elizabeth

Giles, Sharon Pearson, Theodore Small, Linda Arnone, Anne Downing and Sandy Miller.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Eric Gardner.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Hummel Elementary School: Sarahi Aguiar, Justin Antipuesto, Hannah Bertinetti, Chronica Cabral, Kiana Campbell, Alyssa Corso, Sarah Galera, Jalen Holmes, Samuel McCumby, Angelina Reyes, Dalia Robinson, Brian Romo, Bernard Sanchez, Maria Tafoya, McKenna Thueson, Zjazel Villegas, Kelsea Claveria , Billy Rossi, Devin Pelletier, Dominique Moorman, Alex Echeverria, Keoki Casey, Hunter Andrews, Elsie Evans, Kaitlin Huddle, Brandon Fuka, Gabriel Medina, Sinjin Allan, Matheus DaSilva, Troi Hollimon, Jeremy Turangan, Preston Warren, Sayanna Roy, Art-Kristian Barit, Christina Eagar, Helen Antipuesto, Enid Corso, Teresa McCumby, Dian Campbell, Kimberly Welch, Anthony Davila, Diane Rossi, Everett Pelletier, Tonia Moorman, Wendy Rodriguez-Echeverria and Selin Babaiain.

On request of Assemblyman Oceguela, the privilege of the floor of the Assembly Chamber for this day was extended to Valerie Hart and Andrea Lynch.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Calia Lindsay and Xiomara Rodriguez.

Assemblyman Oceguela moved that the Assembly adjourn until Friday, May 22, 2009, at 9 a.m.

Motion carried.

Assembly adjourned at 11:55 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL

Chief Clerk of the Assembly