# THE ONE HUNDRED AND EIGHTH DAY

CARSON CITY (Wednesday), May 20, 2009

Senate called to order at 1:29 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Rabbi Jonathan Freirich.

Thank you for the honor of providing some opening words today. This week in the cycle of annual readings of the Five Books of Moses, Jews turn to the opening of the Book of Numbers, called *Bemidbar*, or "in the Wilderness," in Hebrew.

We can easily see that the English name of the Book of Numbers refers to the census taking with which the book opens—an unusual thing to document, the meticulous counting of a multitude. The text itself talks about the census as a way to implement a draft, to gauge the number of capable fighting men that the Israelites could field before engaging in the conquest of Canaan.

The Jewish people historically view any sort of census with great suspicion, worried about not just a draft to prepare for war but also the imposition of forced labor, like Solomon may have done in order to build the ancient Temple and his palace, and the imposition of taxes. Taxes were even more controversial in the ancient world than they are today.

This reticence about counting has led Jewish people to come up with more respectful ways of counting people. A quorum for public prayer in a Jewish setting is ten Jewish adults. In order to avoid reducing a person to a number, many Jews will memorize a verse of the Hebrew Scripture that has ten words in it and recite it as a way of counting the people in the group.

As we deliberate numbers large and small, both of people and money, may we always recognize that such counting leads all too easily to a dehumanization of the situations we aim to solve. May we keep our eyes on the individual and unique value of every person we hope to serve.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

## REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 281, 314, 454, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

*Mr. President:*

Your Committee on Finance, to which were referred Senate Bills Nos. 421, 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

*Mr. President:*

Your Committee on Judiciary, to which was referred Assembly Bill No. 283, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

TERRY CARE, *Chair*

*Mr. President:*

Your Committee on Natural Resources, to which was referred Assembly Bill No. 426, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

## MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 19, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 8, 121, 165, 172, 186, 266, 268, 339, 340, 361, 362, 365, 377, 414; Senate Joint Resolution No. 1.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 17, Amendment No. 746; Senate Bill No. 26, Amendment No. 776; Senate Bill No. 84, Amendment No. 723; Senate Bill No. 128, Amendment No. 732; Senate Bill No. 162, Amendment No. 825; Senate Bill No. 195, Amendment No. 717; Senate Bill No. 228, Amendment No. 781; Senate Bill No. 253, Amendment No. 731; Senate Bill No. 261, Amendment No. 748; Senate Bill No. 276, Amendment No. 623; Senate Bill No. 312, Amendment No. 800; Senate Bill No. 333, Amendment No. 644; Senate Bill No. 360, Amendment No. 663; Senate Bill No. 378, Amendment No. 618, and respectfully requests your honorable body to concur in said amendments.

DIANE M. KEETCH
*Assistant Chief Clerk of the Assembly*

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 249 be taken from the Secretary's desk and placed on the Second Reading File on the second agenda.

Motion carried.

Senator Parks moved that Assembly Bill No. 246 be taken from the Second Reading File and rereferred to the Committee on Natural Resources.

Motion carried.

Senator Care moved that Assembly Bills Nos. 102, 215, 319, 381 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Care moved to take Assembly Bill No. 395 from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator Care moved that Senate Bill No. 311; Assembly Bills Nos. 181, 309, 313, 320, 474 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Care moved that Senate Bill No. 426 be moved to the bottom of the Second Reading File.

Motion carried.

Senator Lee moved that Assembly Bill No. 243 be taken from the Secretary's desk and placed on the General File on the third agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 430—AN ACT relating to state financial administration; transferring certain amounts of money from the Trust Fund for Public Health and the Fund for a Healthy Nevada to the State General Fund; indicating for money transferred from the Fund for a Healthy Nevada the amounts transferred from each particular program to which the money had been allocated for expenditure; and providing other matters properly relating thereto.

Senator Mathews moved that the bill be referred to the Committee on Finance.

Motion carried.

By the Committee on Finance:

Senate Bill No. 431—AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the fiscal years commencing on July 1, 2009, and ending on June 30, 2010, and beginning on July 1, 2010, and ending on June 30, 2011; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

Senator Mathews moved that the bill be referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 54.

Bill read second time.

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

Amendment No. 660.

"SUMMARY—Authorizes certain counties to establish programs to provide financial assistance to certain persons. (BDR 20-473)"

"AN ACT relating to counties; authorizing a board of county commissioners in certain counties to establish programs to provide financial assistance to persons to connect to a public water or sewer system or to make property resistant to flood damage; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to establish: (1) a program to provide financial assistance to persons to connect to a public water or sewer system under certain circumstances; and (2) a program to provide financial assistance to owners of public or private property to make such property resistant to flood damage.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Except as otherwise provided in this section, if a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 operates a public water or sewer system, the board may:*

*(a) Establish by ordinance a program to provide financial assistance to persons ~~[within a particular water basin]~~ to connect to the public water or sewer system.*

*(b) Accept gifts, grants and other sources of money to pay the costs ~~[associated with a program established pursuant to paragraph (a).]~~ to assist persons to connect to the public water or sewer system.*

*2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1 must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to persons to connect to a public water or sewer system furthers a legitimate public purpose.*

*3. If a board of county commissioners establishes a program to provide financial assistance pursuant to subsection 1, the board:*

*(a) Must establish a plan for the management and protection of the groundwater in the water basin to which the program to provide financial assistance applies. Such a plan must include, without limitation, provisions for the sustainable management of ~~[the use of the groundwater]~~ municipal wells that are owned by the county in the water basin . ~~[by residents of the county and other users of water in the county.]~~*

*(b) Except as otherwise provided in subsection 4, may set forth conditions or limitations on any financial assistance provided pursuant to the program.*

*4. Financial assistance provided pursuant to a program established pursuant to subsection 1:*

*(a) May be in the form of grants , gifts or loans, or any combination thereof.*

*(b) May only be used to pay the necessary and actual expenses to:*

*(1) Disconnect from a private water or sewer system;*

*(2) Eliminate a private water or sewer system; and*

*(3) Connect to the public water or sewer system.*

*5. A board may not establish a program to provide financial assistance pursuant to subsection 1 unless the board finds that establishing such a*

*program is necessary to provide the public with a safe and reliable water and sewer system.*

*6. The requirements of NRS 244.3655 do not apply to actions taken by a board of county commissioners pursuant to this section.*

*7. Nothing in this section shall be so construed as to require:*

*(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or*

*(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.*

*8. As used in this section ~~[, "]~~ :*

*(a) "Private water or sewer system" means an on-site:*

*(1) Domestic well, and any facility or facilities related thereto, that provides potable water; or*

*(2) Sewage or septic system, and any facility or facilities related thereto, that serves a residential dwelling unit for the disposal, collection, storage or treatment of sewage.*

*(b) "Public water or sewer system" means a facility or facilities for the collection, pumping, treatment, storage or conveyance of potable water or sewage and includes, without limitation, mains, conduits, aqueducts, pipes, pipelines, ditches, canals, pumping stations, and all appurtenances, equipment and machinery necessary or useful and convenient for obtaining, storing, transporting or transferring water or sewage.*

Sec. 3. *1. Except as otherwise provided in this section, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may:*

*(a) Establish by ordinance a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded in order to make such property resistant to flood damage.*

*(b) Accept gifts, grants and other sources of money to pay the costs associated with a program established pursuant to paragraph (a).*

*(c) Pay costs associated with a program established pursuant to paragraph (a) through the use of:*

*(1) Revenue and bond proceeds derived from a flood management project, except that no bond proceeds may be used to provide any loans pursuant to the program.*

*(2) Funds from the infrastructure fund of the county.*

*(3) Gifts, grants and other sources of money available to the board of county commissioners.*

*2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1:*

*(a) Must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded is necessary to promote and protect the public health, safety and welfare.*

*(b) May include a provision that the award of financial assistance is subject to any limitation or condition that the board determines is necessary.*

*3. Financial assistance provided pursuant to a program established pursuant to subsection 1:*

*(a) May be in the form of grants or loans, or any combination thereof.*

*(b) May only be used to pay the actual and necessary costs to make private or public property resistant to flood damage, including, without limitation, flood-proofing the property, erecting barriers, elevating foundations of buildings, structures or improvements, and relocating buildings, structures or improvements to areas that are not likely to be flooded.*

*(c) May not be awarded:*

*(1) To protect any building, structure or improvement unless the building, structure or improvement exists or construction has begun on the building, structure or improvement on or before July 1, 2009.*

*(2) To relocate any building, structure or improvement to property that is also in an area likely to be flooded.*

*(3) Unless the property owner:*

*(I) Submits an application for financial assistance on or before June 30, 2019.*

*(II) Has not received and agrees not to apply for any further financial assistance to make his property resistant to flood damage from a tourism improvement district established pursuant to NRS 271A.070, a tax increment area created pursuant to NRS 278C.155, a redevelopment area established pursuant to NRS 279.426, a program for the rehabilitation of residential neighborhoods established pursuant to NRS 279A.030 or a program for the rehabilitation of abandoned residential properties established pursuant to NRS 279B.030.*

*(III) Satisfies any conditions adopted by the board of county commissioners.*

*4. The board of county commissioners may delegate its authority to administer a program of financial assistance established pursuant to this section to a flood management authority.*

*5. The board of county commissioners or, if the board has delegated its authority to administer a program of financial assistance pursuant to subsection 4, a flood management authority may bring an action against the property owner for the collection of any delinquent payments, charges, fees, interest or penalties related to any loan provided pursuant to a program established pursuant to this section.*

*6. Nothing in this section shall be so construed as to require:*

*(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or*

*(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.*

*7. As used in this section:*

*(a) "Drainage and flood control project" has the meaning ascribed to it in NRS 244A.027.*

*(b) "Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.*

*(c) "Flood management project," or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:*

*(1) A drainage and flood control project;*

*(2) A project to construct, repair or restore an ecosystem;*

*(3) A project to mitigate any adverse effect of flooding or flood management activity or improvement;*

*(4) A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;*

*(5) A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;*

*(6) A park project that is related to a flood management project;*

*(7) Any landscaping or similar amenity that is constructed:*

*(I) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or*

*(II) To mitigate any adverse effect on the environment relating to a flood management project;*

*(8) A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;*

*(9) A project to protect and manage a floodplain;*

*(10) A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and*

*(11) Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management, or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.*

Sec. 4. NRS 244.36605 is hereby amended to read as follows:

244.36605 *1. In a county whose population is 100,000 or more but less than 400,000, if the county provides financial assistance through a program established pursuant to section 2 or 3 of this act, the board of county commissioners may elect by ordinance to have delinquent repayments of loans, including, without limitation, charges, fees, interest and penalties, collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:*

*(a) A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and*

*(b) The amount of the delinquent charges,*

➥ *to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, not later than June 1.*

*2.* In a county whose population is less than 400,000:

~~[1.]~~ *(a)* The board of county commissioners of a county which provides sewerage, storm drainage or water service, or any combination of those services, may elect by ordinance to have delinquent charges for any or all of those services collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:

~~[(a)]~~ *(1)* A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

~~[(b)]~~ *(2)* The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, no later than June 1.

~~[2.]~~ *(b)* The powers authorized by this section are alternative to all other powers of the county for the collection of such delinquent charges ~~[.~~

~~3.]~~ *or repayments.*

*(c)* The real property may be described by reference to maps prepared by and on file in the office of the county assessor or by descriptions used by him.

~~[4.]~~ *(d)* The amount of any such delinquent charge *or repayment* constitutes a lien against the lot or parcel of land or mobile or manufactured home against which the charge has been imposed as of the time when the lien of taxes on the roll or on mobile or manufactured homes attach.

~~[5.]~~ *(e)* Except as otherwise provided in ~~[subsection 7,]~~ *paragraph (g),* the tax receiver of the county shall include the amount of the delinquent charges *or repayments* on bills for taxes levied against the respective lots and parcels of land or mobile or manufactured homes, as applicable. Thereafter the

amount of the delinquent charges *or repayments* must be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the county.

~~[6.]~~ *(f)* All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to delinquent charges ~~[for services]~~ *or repayments* that are collected in the manner authorized by this section.

~~[7.]~~ *(g)* The tax receiver of the county may issue separate bills for delinquent charges *or repayments* that are collected in the manner authorized by this section and separate receipts for collection on account of those charges.

Sec. 5. NRS 377B.160 is hereby amended to read as follows:

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, expended by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

➥ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included

in a plan adopted by the board of county commissioners pursuant to subsection 6 of NRS 377B.100 before January 1, 2003; ~~[or]~~

(d) *Any program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property resistant to flood damage that is established pursuant to section 3 of this act; or*

*(e)* Any combination of those purposes.

3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

(1) Water facilities; or

(2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) Projects described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to (f), inclusive; or

(h) Any combination of those purposes.

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This amendment clarifies that gifts, grants and other sources of money received for the program must assist property owners in connecting to a public water or sewer system.

It clarifies that the plan required in the bill for the management and protection of groundwater must specifically provide for the sustainable management of the county's municipal wells in the water basin covered under the assistance program.

It adds a definition of "private water or sewer system" as it relates only to an "on-site" domestic well or sewage or septic system that serves a private dwelling or residence.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 60.

Bill read second time.

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

Amendment No. 787.

"SUMMARY—Revises provisions concerning the administration and investment of public money. (BDR 31-453)"

"AN ACT relating to public financial administration; ~~[eliminating certain requirements pertaining to the sale and liquidation of certain securities;]~~ authorizing the State Treasurer to deposit state money in out-of-state financial institutions under certain circumstances; authorizing the state and local governments to issue tax credit bonds under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[ Existing law designates the types of bonds, loans, financial instruments and other securities in which public money may lawfully be invested. Public money may be invested in some securities only if the securities are of a certain investment quality which is established by the investment rating given to the security by a nationally recognized securities rating service. (NRS 355.140, 355.170, 355.171) Sections 1-3 of this bill eliminate the requirement that certain investment-rated securities which have been purchased with public money must be sold "as soon as possible" if their investment rating is subsequently reduced below the rating that was required for their purchase. Sections 1 and 2 also provide that if a particular security purchased with public money complies with all applicable terms, conditions, limitations and restrictions at the time of its purchase, it is not required that the security be sold if it subsequently fails to comply with any such term, condition, limitation or restriction. (NRS 355.140, 355.170)]~~

Sections 4 and 5 of this bill eliminate a restriction on the authority of the State Treasurer to deposit state money in out-of-state financial institutions and allow him to use such institutions whenever the State Board of Finance gives its approval.

Sections 7-14 of this bill make various changes relating to the issuance of bonds so that the state and local governments may take advantage of certain provisions of the federal American Recovery and Reinvestment Act, Public Law 111-5, that authorize the issuance of tax credit bonds.

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

Section 1. ~~[NRS 355.140 is hereby amended to read as follows:~~

~~355.140 1. In addition to other investments provided for by a specific statute, the following bonds and other securities are proper and lawful investments of any of the money of this State, of its various departments, institutions and agencies, and of the State Insurance Fund:~~

~~(a) Bonds and certificates of the United States;~~

~~(b) Bonds, notes, debentures and loans if they are underwritten by or their payment is guaranteed by the United States;~~

~~(c) Obligations or certificates of the United States Postal Service, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Agricultural Mortgage Corporation, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States;~~

~~(d) Bonds of this State or other states of the Union;~~

~~(e) Bonds of any county of this State or of other states;~~

~~(f) Bonds of incorporated cities in this State or in other states of the Union, including special assessment district bonds if those bonds provide that any deficiencies in the proceeds to pay the bonds are to be paid from the general fund of the incorporated city;~~

~~(g) General obligation bonds of irrigation districts and drainage districts in this State which are liens upon the property within those districts, if the value of the property is found by the board or commission making the investments to render the bonds financially sound over all other obligations of the districts;~~

~~(h) Bonds of school districts within this State;~~

~~(i) Bonds of any general improvement district whose population is 200,000 or more and which is situated in two or more counties of this State or of any other state, if:~~

~~(1) The bonds are general obligation bonds and constitute a lien upon the property within the district which is subject to taxation; and~~

~~(2) That property is of an assessed valuation of not less than five times the amount of the bonded indebtedness of the district;~~

~~(j) Medium term obligations for counties, cities and school districts authorized pursuant to chapter 350 of NRS;~~

~~(k) Loans bearing interest at a rate determined by the State Board of Finance when secured by first mortgages on agricultural lands in this State of not less than three times the value of the amount loaned, exclusive of perishable improvements, and of unexceptional title and free from all encumbrances;~~

~~(l) Farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks and federal intermediate credit banks under the authority of the Federal Farm Loan Act, formerly 12 U.S.C. 636 to 1012, inclusive, and 1021 to 1129, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. 2001 to 2259, inclusive, and bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, formerly 12 U.S.C. 1131 to 1138e, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. 2001 to 2259, inclusive, excluding such money thereof as has been received or which may be received hereafter from~~

~~the Federal Government or received pursuant to some federal law which governs the investment thereof;~~

~~(m) Negotiable certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations;~~

~~(n) Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve banks or trust companies which are members of the Federal Reserve System, except that acceptances may not exceed 180 days' maturity, and may not, in aggregate value, exceed 20 percent of the total par value of the portfolio as determined on the date of purchase;~~

~~(o) Commercial paper issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States that:~~

~~(1) At the time of purchase has a remaining term to maturity of not more than 270 days; and~~

~~(2) Is rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better,~~

~~• except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total par value of the portfolio as determined on the date of purchase ;~~ [, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible;]

~~(p) Notes, bonds and other unconditional obligations for the payment of money, except certificates of deposit that do not qualify pursuant to paragraph (m), issued by corporations organized and operating in the United States or by depository institutions licensed by the United States or any state and operating in the United States that:~~

~~(1) Are purchased from a registered broker-dealer;~~

~~(2) At the time of purchase have a remaining term to maturity of not more than 5 years; and~~

~~(3) Are rated by a nationally recognized rating service as "A" or its equivalent, or better,~~

~~• except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total par value of the portfolio ;~~ [, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible;]

~~(q) Money market mutual funds which:~~

~~(1) Are registered with the Securities and Exchange Commission;~~

~~(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and~~

~~(3) Invest only in securities issued by the Federal Government or agencies of the Federal Government or in repurchase agreements fully collateralized by such securities;~~

~~(r) Collateralized mortgage obligations that are rated by a nationally recognized rating service as "AAA" or its equivalent; and~~

(c) Asset-backed securities that are rated by a nationally recognized rating service as "AAA" or its equivalent.

2. Repurchase agreements are proper and lawful investments of money of the State and the State Insurance Fund for the purchase or sale of securities which are negotiable and of the types listed in subsection 1 if made in accordance with the following conditions:

(a) The State Treasurer shall designate in advance and thereafter maintain a list of qualified counterparties which:

(1) Regularly provide audited and, if available, unaudited financial statements to the State Treasurer;

(2) The State Treasurer has determined to have adequate capitalization and earnings and appropriate assets to be highly credit worthy; and

(3) Have executed a written master repurchase agreement in a form satisfactory to the State Treasurer and the State Board of Finance pursuant to which all repurchase agreements are entered into. The master repurchase agreement must require the prompt delivery to the State Treasurer and the appointed custodian of written confirmations of all transactions conducted thereunder, and must be developed giving consideration to the federal Bankruptcy Act, 11 U.S.C. 101 et seq.

(b) In all repurchase agreements:

(1) At or before the time money to pay the purchase price is transferred, title to the purchased securities must be recorded in the name of the appointed custodian, or the purchased securities must be delivered with all appropriate, executed transfer instruments by physical delivery to the custodian;

(2) The State must enter into a written contract with the custodian appointed pursuant to subparagraph (1) which requires the custodian to:

(I) Disburse cash for repurchase agreements only upon receipt of the underlying securities;

(II) Notify the State when the securities are marked to the market if the required margin on the agreement is not maintained;

(III) Hold the securities separate from the assets of the custodian; and

(IV) Report periodically to the State concerning the market value of the securities;

(3) The market value of the purchased securities must exceed 102 percent of the repurchase price to be paid by the counterparty and the value of the purchased securities must be marked to the market weekly;

(4) The date on which the securities are to be repurchased must not be more than 90 days after the date of purchase; and

(5) The purchased securities must not have a term to maturity at the time of purchase in excess of 10 years.

3. As used in subsection 2:

(a) "Counterparty" means a bank organized and operating or licensed to operate in the United States pursuant to federal or state law or a securities dealer which is:

~~(1) A registered broker-dealer;~~

~~(2) Designated by the Federal Reserve Bank of New York as a "primary" dealer in United States government securities; and~~

~~(3) In full compliance with all applicable capital requirements.~~

~~(b) "Repurchase agreement" means a purchase of securities by the State or State Insurance Fund from a counterparty which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.~~

~~4. No money of this State may be invested pursuant to a reverse repurchase agreement, except money invested pursuant to chapter 286 of NRS.~~

~~*5. The terms, conditions, limitations and restrictions regarding investments listed in this section apply only at the time an investment is originally acquired and must not be construed to require the liquidation of an investment at any time.]*~~ *(Deleted by amendment.)*

Sec. 2. ~~[~~NRS 355.170 is hereby amended to read as follows:

~~355.170 1. Except as otherwise provided in this section and NRS 354.750 and 355.171, the governing body of a local government may purchase for investment the following securities and no others:~~

~~(a) Bonds and debentures of the United States, the maturity dates of which do not extend more than 10 years after the date of purchase.~~

~~(b) Farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks and federal intermediate credit banks under the authority of the Federal Farm Loan Act, formerly 12 U.S.C. 636 to 1012, inclusive, and 1021 to 1129, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. 2001 to 2259, inclusive, and bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, formerly 12 U.S.C. 1131 to 1138e, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. 2001 to 2259, inclusive.~~

~~(c) Bills and notes of the United States Treasury, the maturity date of which is not more than 10 years after the date of purchase.~~

~~(d) Obligations of an agency or instrumentality of the United States of America or a corporation sponsored by the government, the maturity date of which is not more than 10 years after the date of purchase.~~

~~(e) Negotiable certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations.~~

~~(f) Securities which have been expressly authorized as investments for local governments by any provision of Nevada Revised Statutes or by any special law.~~

~~(g) Nonnegotiable certificates of deposit issued by insured commercial banks, insured credit unions or insured savings and loan associations, except certificates that are not within the limits of insurance provided by an instrumentality of the United States, unless those certificates are collateralized in the same manner as is required for uninsured deposits by a~~

~~county treasurer pursuant to NRS 356.133. For the purposes of this paragraph, any reference in NRS 356.133 to a "county treasurer" or "board of county commissioners" shall be deemed to refer to the appropriate financial officer or governing body of the local government purchasing the certificates.~~

~~(h) Subject to the limitations contained in NRS 355.177, negotiable notes medium-term obligations issued by local governments of the State of Nevada pursuant to NRS 350.087 to 350.095, inclusive.~~

~~(i) Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve banks, and generally accepted by banks or trust companies which are members of the Federal Reserve System. Eligible bankers' acceptances may not exceed 180 days' maturity. Purchases of bankers' acceptances may not exceed 20 percent of the money available to a local government for investment as determined on the date of purchase.~~

~~(j) Obligations of state and local governments if:~~

~~(1) The interest on the obligation is exempt from gross income for federal income tax purposes; and~~

~~(2) The obligation has been rated "A" or higher by one or more nationally recognized bond credit rating agencies.~~

~~(k) Commercial paper issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States that:~~

~~(1) Is purchased from a registered broker-dealer;~~

~~(2) At the time of purchase has a remaining term to maturity of no more than 270 days; and~~

~~(3) Is rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better,~~

~~→ except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total portfolio as determined on the date of purchase .~~ [, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible.]

~~(l) Money market mutual funds which:~~

~~(1) Are registered with the Securities and Exchange Commission;~~

~~(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and~~

~~(3) Invest only in:~~

~~(I) Securities issued by the Federal Government or agencies of the Federal Government;~~

~~(II) Master notes, bank notes or other short-term commercial paper rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better, issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States; or~~

~~(III) Repurchase agreements that are fully collateralized by the obligations described in sub-subparagraphs (I) and (II).~~

~~(m) Obligations of the Federal Agricultural Mortgage Corporation.~~

~~2. Repurchase agreements are proper and lawful investments of money of a governing body of a local government for the purchase or sale of securities which are negotiable and of the types listed in subsection 1 if made in accordance with the following conditions:~~

~~(a) The governing body of the local government shall designate in advance and thereafter maintain a list of qualified counterparties which:~~

~~(1) Regularly provide audited and, if available, unaudited financial statements;~~

~~(2) The governing body of the local government has determined to have adequate capitalization and earnings and appropriate assets to be highly creditworthy; and~~

~~(3) Have executed a written master repurchase agreement in a form satisfactory to the governing body of the local government pursuant to which all repurchase agreements are entered into. The master repurchase agreement must require the prompt delivery to the governing body of the local government and the appointed custodian of written confirmations of all transactions conducted thereunder, and must be developed giving consideration to the federal Bankruptcy Act.~~

~~(b) In all repurchase agreements:~~

~~(1) At or before the time money to pay the purchase price is transferred, title to the purchased securities must be recorded in the name of the appointed custodian, or the purchased securities must be delivered with all appropriate, executed transfer instruments by physical delivery to the custodian;~~

~~(2) The governing body of the local government must enter a written contract with the custodian appointed pursuant to subparagraph (1) which requires the custodian to:~~

~~(I) Disburse cash for repurchase agreements only upon receipt of the underlying securities;~~

~~(II) Notify the governing body of the local government when the securities are marked to the market if the required margin on the agreement is not maintained;~~

~~(III) Hold the securities separate from the assets of the custodian; and~~

~~(IV) Report periodically to the governing body of the local government concerning the market value of the securities;~~

~~(3) The market value of the purchased securities must exceed 102 percent of the repurchase price to be paid by the counterparty and the value of the purchased securities must be marked to the market weekly;~~

~~(4) The date on which the securities are to be repurchased must not be more than 90 days after the date of purchase; and~~

~~(5) The purchased securities must not have a term to maturity at the time of purchase in excess of 10 years.~~

~~3. The securities described in paragraphs (a), (b) and (c) of subsection 1 and the repurchase agreements described in subsection 2 may be purchased~~

~~when, in the opinion of the governing body of the local government, there is sufficient money in any fund of the local government to purchase those securities and the purchase will not result in the impairment of the fund for the purposes for which it was created.~~

~~4. When the governing body of the local government has determined that there is available money in any fund or funds for the purchase of bonds as set out in subsection 1 or 2, those purchases may be made and the bonds paid for out of any one or more of the funds, but the bonds must be credited to the funds in the amounts purchased, and the money received from the redemption of the bonds, as and when redeemed, must go back into the fund or funds from which the purchase money was taken originally.~~

~~5. Any interest earned on money invested pursuant to subsection 3, may, at the discretion of the governing body of the local government, be credited to the fund from which the principal was taken or to the general fund of the local government.~~

~~6. The governing body of a local government may invest any money apportioned into funds and not invested pursuant to subsection 3 and any money not apportioned into funds in bills and notes of the United States Treasury, the maturity date of which is not more than 1 year after the date of investment. These investments must be considered as cash for accounting purposes, and all the interest earned on them must be credited to the general fund of the local government.~~

~~7. This section does not authorize the investment of money administered pursuant to a contract, debenture agreement or grant in a manner not authorized by the terms of the contract, agreement or grant.~~

~~8. *The terms, conditions, limitations and restrictions regarding investments listed in this section apply only at the time an investment is originally acquired and must not be construed to require the liquidation of an investment at any time.*~~

~~9. As used in this section:~~

~~(a) "Counterparty" means a bank organized and operating or licensed to operate in the United States pursuant to federal or state law or a securities dealer which is:~~

~~(1) A registered broker-dealer;~~

~~(2) Designated by the Federal Reserve Bank of New York as a "primary" dealer in United States government securities; and~~

~~(3) In full compliance with all applicable capital requirements.~~

~~(b) "Local government" has the meaning ascribed to it in NRS 354.474.~~

~~(c) "Repurchase agreement" means a purchase of securities by the governing body of a local government from a counterparty which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.~~] *(Deleted by amendment.)*

Sec. 3. ~~[NRS 355.171 is hereby amended to read as follows:~~

~~355.171 1. Except as otherwise provided in this section, a board of county commissioners, a board of trustees of a county school district or the governing body of an incorporated city may purchase for investment:~~

~~(a) Notes, bonds and other unconditional obligations for the payment of money issued by corporations organized and operating in the United States that:~~

~~(1) Are purchased from a registered broker-dealer;~~

~~(2) At the time of purchase have a remaining term to maturity of no more than 5 years; and~~

~~(3) Are rated by a nationally recognized rating service as "A" or its equivalent, or better.~~

~~(b) Collateralized mortgage obligations that are rated by a nationally recognized rating service as "AAA" or its equivalent.~~

~~(c) Asset-backed securities that are rated by a nationally recognized rating service as "AAA" or its equivalent.~~

~~2. With respect to investments purchased pursuant to paragraph (a) of subsection 1:~~

~~(a) Such investments must not, in aggregate value, exceed 20 percent of the total portfolio as determined on the date of purchase; *and*~~

~~(b) Not more than 25 percent of such investments may be in notes, bonds and other unconditional obligations issued by any one corporation .~~ ~~[; and~~

~~(c) If the rating of an obligation is reduced to a level that does not meet the requirements of that paragraph, the obligation must be sold as soon as possible.]~~

~~3. Subsections 1 and 2 do not:~~

~~(a) Apply to a:~~

~~(1) Board of county commissioners of a county whose population is less than 100,000;~~

~~(2) Board of trustees of a county school district in a county whose population is less than 100,000; or~~

~~(3) Governing body of an incorporated city whose population is less than 100,000,~~

~~→ unless the purchase is effected by the State Treasurer pursuant to his investment of a pool of money from local governments or by an investment adviser who is registered with the Securities and Exchange Commission and approved by the State Board of Finance.~~

~~(b) Authorize the investment of money administered pursuant to a contract, debenture agreement or grant in a manner not authorized by the terms of the contract, agreement or grant.]~~ *(Deleted by amendment.)*

Sec. 4. NRS 356.010 is hereby amended to read as follows:

356.010 All money under the control of the State Treasurer belonging to the State must be deposited in any state or national banks, any insured credit unions or in any insured savings and loan associations in this State ~~[,]~~ or , *if approved by the State Board of Finance,* in any banks, insured credit unions or insured savings and loan associations outside of this State . ~~[as provided in~~

~~NRS 356.100.]~~ The depository banks, credit unions or savings and loan associations may, if authorized by a contract negotiated with the State Treasurer, receive compensation for handling, collecting and paying all checks, drafts and other exchange. The compensation may be provided through the use of a compensating balance or a fixed-rate fee, or any combination thereof.

Sec. 5. NRS 356.105 is hereby amended to read as follows:

356.105 The provisions of NRS 356.010 to ~~[356.100,]~~ *356.090,* inclusive, do not require any depository to accept state deposits.

Sec. 6. NRS 356.110 is hereby amended to read as follows:

356.110 A state officer or employee who willfully violates:

1. NRS 356.011 is guilty of a misdemeanor.

2. Any of the other provisions of NRS 356.010 to ~~[356.100,]~~ *356.090,* inclusive, is guilty of malfeasance in office which is a category D felony and shall be punished as provided in NRS 193.130.

Sec. 7. Chapter 99 of NRS is hereby amended by adding thereto a new section to read as follows:

*Notwithstanding any provision of law to the contrary, in calculating the rate of interest on any bonds or other securities that are issued by this State or any political subdivision or municipal or public corporation of this State on or before June 30, 2011, for the purposes of any limitations on the rate of interest provided by specific statute, and for the purposes of all other statutory requirements or calculations based on the rate or amount of interest on such bonds or securities, any credit expected to be paid to or for the benefit of the issuer of the bonds or other securities under 26 U.S.C. 6431, as amended, must be treated as a reduction in the amount of interest paid, as of the date or dates on which the credit is expected to be received. Such amount must be used to pay the interest on the bonds or other securities for which it is received or to reimburse the issuer of the bonds or other securities for that payment. If a credit that is expected to be paid under 26 U.S.C. 6431, as amended, is not paid, the issuer of the bonds or other securities may pay the interest that is expected to be paid from the sources pledged or otherwise available to pay the principal of and interest on the bonds or other securities.*

Sec. 8. NRS 271.355 is hereby amended to read as follows:

271.355 1. For the purpose of paying any contractor or otherwise defraying any costs of the project as the costs become due from time to time until money is available therefor from the levy and collection of assessments and any issuance of bonds, the governing body may issue interim warrants.

2. Any interim warrants issued for any construction work may be issued only upon estimates of the engineer.

3. Any interim warrants must:

(a) Bear such date or dates;

(b) Mature in such denomination or denominations at such time or times, or at any time upon call;

(c) ~~[Bear]~~ *Except as otherwise provided in section 7 of this act, bear* interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(d) Be payable in such medium of payment at such place or places within and without the State, including but not limited to the county treasurer,

➥ as the governing body may determine.

4. Any interim warrants may be issued with privileges for registration for payment as to principal only, or as to both principal and interest, may be negotiable or nonnegotiable, may be general obligations for the payment of which the governing body pledges the full faith and credit of the municipality, or may be special obligations payable from designated special assessments, any bond proceeds, and any other money designated to be available for the redemption of such interim warrants, and generally must be issued in such manner, in such form, with such recitals, terms, covenants and conditions, and with such other details, as may be provided by the governing body by ordinance.

5. An ordinance for the issuance of interim warrants may be adopted or amended as if an emergency existed.

Sec. 9. NRS 271.485 is hereby amended to read as follows:

271.485 1. Any bonds issued pursuant to this chapter may be sold in such a manner as may be approved by the governing body to defray the cost of the project, including all proper incidental expenses. The governing body may issue a single issue of bonds to defray the costs of projects in two or more improvement districts if the principal amount of those bonds does not exceed the total uncollected assessments levied in each improvement district.

2. Bonds must be sold in the manner prescribed in NRS 350.105 to 350.195, inclusive:

(a) For not less than the principal amount thereof and accrued interest thereon; or

(b) At the option of the governing body, below par at a discount not exceeding 9 percent of the principal amount and except as otherwise provided in NRS 271.487 and 271.730, *and section 7 of this act,* at a price which will not result in an effective interest rate which exceeds by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted if the maximum or any lesser amount of discount permitted by the governing body has been capitalized as a cost of the project.

3. Except as otherwise provided in subsection 4 and NRS 271.487 and 271.730, the rate of interest of the bonds must not at any time exceed the rate of interest, or lower or lowest rate if more than one, borne by the special assessments, but any rate of interest of the bonds may be the same as or less than any rate of interest of the assessment, subject to the limitation provided in subsection 2, as the governing body may determine.

4. Except as otherwise provided in NRS 271.730, if a governing body creates a district pursuant to the provisions of NRS 271.710, the governing body or chief financial officer of the municipality shall, in consultation with a financial advisor or the underwriter of the bonds, fix the rate of interest of the bonds at a rate of interest such that the principal and interest due on the bonds in each year, net of any interest capitalized from the proceeds of the bonds, will not exceed the amount of principal and interest to be collected on the special assessments during that year.

5. The governing body may employ legal, fiscal, engineering and other expert services in connection with any project authorized by this chapter and the authorization, issuance and sale of bonds.

6. Any accrued interest must be applied to the payment of the interest on or the principal of the bonds, or both interest and principal.

7. Any unexpended balance of the proceeds of the bond remaining after the completion of the project for which the bonds were issued must be paid immediately into the fund created for the payment of the principal of the bonds and must be used therefor, subject to the provisions as to the times and methods for their payment as stated in the bonds and the proceedings authorizing their issuance.

8. The validity of the bonds must not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project for which the bonds are issued.

9. A purchaser of the bonds is not responsible for the application of the proceeds of the bonds by the municipality or any of its officers, agents and employees.

10. The governing body may enter into a contract to sell special assessment bonds at any time but, if the governing body so contracts before it awards a construction contract or otherwise contracts for acquiring or improving the project, the governing body may terminate the contract to sell the bonds, if:

(a) Before awarding the construction contract or otherwise contracting for the acquisition or improvement of the project, it determines not to acquire or improve the project; and

(b) It has not elected to proceed pursuant to subsection 2 or 3 of NRS 271.330, but has elected to proceed pursuant to subsection 1 of that section.

11. If the governing body ceases to have jurisdiction to proceed, because the requisite proportion of owners of the frontage to be assessed, or of the area, zone or other basis of assessment, file written complaints, protests and objections to the project, as provided in NRS 271.306, or for any other reason, any contract to sell special assessment bonds is terminated and becomes inoperative.

Sec. 10. NRS 349.076 is hereby amended to read as follows:

349.076 Except as otherwise provided by a specific statute, *including, without limitation, section 7 of this act,* the rate or rates of interest on securities issued by the State must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and

2. For special obligations, the Index of Revenue Bonds,

➥ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 11. NRS 350.2011 is hereby amended to read as follows:

350.2011 Except *as otherwise provided in section 7 of this act, and except* where the provisions, whenever enacted, of a general or special law or of a special charter otherwise require, the rate or rates of interest on securities issued by a political subdivision of this state must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and

2. For special obligations, the Index of Revenue Bonds,

➥ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 12. NRS 350A.140 is hereby amended to read as follows:

350A.140 1. The State Treasurer is the Administrator of the Municipal Bond Bank.

2. In his capacity as Administrator, the State Treasurer may:

(a) Sue and be sued to establish or enforce any right arising out of a lending project or of any state securities issued pursuant to this chapter;

(b) Acquire and hold municipal securities and revenue securities, and exercise all of the rights of holders of those securities;

(c) Sell or otherwise dispose of municipal securities and revenue securities and assets acquired in connection with those securities, unless limited by any agreement which relates to those securities;

(d) Make contracts and execute all necessary or convenient instruments;

(e) Accept grants of money from the Federal Government, the State, any agency or political subdivision, or any other person;

(f) Adopt regulations relating to lending projects and the administration of lending projects;

(g) Employ for himself or for any municipality, any necessary legal, fiscal, engineering and other expert services in connection with lending projects and with the authorization, sale and issuance of state securities, municipal securities and revenue securities;

(h) Enter into agreements and arrangements consistent with the provisions of this chapter with respect to the issuance of state securities and the purchase of municipal and revenue securities;

(i) Make findings concerning the sufficiency of revenues and taxes pledged for the payment of revenue securities to repay state securities which were issued to acquire those revenue securities; ~~[and]~~

(j) *At the request of a municipality, on or before June 30, 2011, apply for and accept a volume cap allocation for tax credit bonds that authorizes the issuance of bonds which can be sold with a federal income tax credit;*

*(k) On or before June 30, 2011, enter into any agreement with the Federal Government that the State Treasurer determines is necessary or advisable:*

*(1) To issue bonds which can be sold with a federal income tax credit pursuant to the provisions of the Internal Revenue Code, as amended; and*

*(2) To receive a volume cap allocation for tax credit bonds described in paragraph (j); and*

*(l)* Undertake other matters which he determines to be necessary or desirable in accomplishing the purposes of this chapter.

Sec. 13. NRS 350A.153 is hereby amended to read as follows:

350A.153 1. This chapter does not confer upon a municipality authority to pledge revenues for the payment of revenue securities. Any such authority must be derived from other law.

2. No state securities may be issued pursuant to this chapter for the purpose of acquiring revenue securities unless the governing body of the municipality issuing the revenue securities includes within the ordinance, resolution or other instrument authorizing the issuance of the revenue securities a statement authorizing the State Treasurer and any other appropriate state officer to withhold from any allocable local revenues to which the municipality is otherwise entitled an amount necessary and legally available to pay the principal and interest due on the revenue securities if the municipality fails to pay timely such principal and interest. The governing body of the municipality shall provide to the State Treasurer:

(a) A copy of the ordinance, resolution or other instrument authorizing the issuance of the revenue securities;

(b) A schedule of payments for the revenue securities; and

(c) The name and address of the person from whom payments of principal and interest on the revenue securities will be received by the State Treasurer.

3. Payments of principal and interest on revenue securities must be due not later than 1 working day before the payments of principal and interest are due on the state securities issued to acquire the revenue securities. If a payment of the principal or interest on revenue securities is not received by the State Treasurer by the date on which the payment is due, the State Treasurer shall immediately notify the municipality to determine if the payment will be immediately forthcoming. If the payment will not be immediately forthcoming, the State Treasurer shall:

(a) Forward the amount necessary to make the payment from any legally available money in the reserve fund created for that purpose in the bond bank fund; and

(b) Withhold that amount from the next payment to the municipality of allocable local revenues legally available therefor. If the amount so withheld is insufficient to pay the amount due, the State Treasurer may continue to

withhold any amounts necessary from subsequent payments to the municipality until the amount due is paid.

4. If, after being notified pursuant to this section, a municipality fails to make a payment of principal or interest on any revenue securities issued by it, the State Treasurer shall notify the Department of Taxation and request that action be taken pursuant to the provisions of NRS 354.685.

5. The State Controller and the Director of the Department of Administration shall approve requisitions or transfers required pursuant to this section and take such other action as is necessary to carry out the provisions of this section.

*6. The provisions of subsections 2 to 5, inclusive, do not:*

*(a) Apply to municipal bonds issued on or before June 30, 2011, where the bondholder or issuer may claim or receive a tax credit pursuant to the provisions of the Internal Revenue Code.*

*(b) Authorize state taxes to be pledged to pay special obligations of the State.*

Sec. 14. NRS 396.852 is hereby amended to read as follows:

396.852 1. ~~[As]~~ *Except as otherwise provided in this section and section 7 of this act, as* the Board may determine, any bonds and other securities issued hereunder ~~[(except as herein otherwise provided)]~~ must:

(a) Be of a convenient denomination or denominations;

(b) Be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code—Investment Securities;

(c) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the Board, but not exceeding 50 years from their date;

(d) Bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the bids are received or a negotiated offer is accepted, the interest on each bond to be payable annually, semiannually, or at other designated intervals, but the first interest payment date may be for interest accruing for any other period;

(e) Be made payable in lawful money of the United States, at the office of the Treasurer of the University or any commercial bank or commercial banks within or without or both within and without the State as may be provided by the Board; and

(f) Be printed at such place within or without this state, as the Board may determine.

2. Any bonds issued hereunder must have one or two sets of interest coupons, bearing the number of the bond to which they are respectively attached, numbered consecutively in regular numerical order, and attached in such a manner that they can be removed upon the payment of the installments of interest without injury to the bonds, except as herein otherwise provided.

Sec. 15. NRS 356.100 is hereby repealed.

Sec. 16. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

356.100 Deposit of state money in bank, credit union or savings and loan association outside State. If deposits in depositories within this State are at or near the limit of deposits allowable under the value of bonds or securities pledged by such banks, insured credit unions or insured savings and loan associations, or as otherwise limited by NRS 356.010 to 356.110, inclusive, and an excess of money has accumulated in the State Treasury, the State Treasurer may:

1. Subject to the provisions of NRS 356.010 to 356.110, inclusive, with the written consent and approval of the State Board of Finance, deposit such amounts of money as may be advisable in banks, insured credit unions or insured savings and loan associations situated outside of this State; and

2. By check or order signed by the State Treasurer and countersigned by at least two members of the State Board of Finance, withdraw the deposits as needed.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This deletes sections in the bill which proposed to eliminate existing requirements that certain investment-rated securities be sold "as soon as possible" if their investment rating is subsequently reduced below the rating that was required for their purchase.

It adds language clarifying the need of Nevada's school districts to improve the efficacy of rollover bonds which are currently authorized for use by school districts in eight northern Nevada counties.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 80.

Bill read second time.

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

Amendment No. 835.

"SUMMARY—Revises provisions relating to excavations.(BDR 40-483)"

"AN ACT relating to excavations; setting forth the duties of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main; revising provisions relating to the operators of subsurface installations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill sets forth the duties and rights of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main when he is notified of a proposed excavation or demolition by an association for operators. Section 4 also authorizes an operator of a sewer main, which may be a local government, to require the person responsible for the excavation or demolition to reimburse any costs incurred by the operator

to locate and identify the connection. *Section 15.5 of this bill provides that on and after January 1, 2011, certain operators are prohibited from obtaining reimbursement of such costs.*

Section 6 of this bill requires the operator of a sewer main to maintain certain information relating to the locations of connections of sewer service laterals to the sewer main.

Section 7 of this bill establishes limitations on the duties and responsibilities of an operator of a sewer main with respect to a connection of a sewer service lateral to the sewer main.

Section 12 of this bill sets forth the duties of a person who connects a sewer service lateral to a sewer main. (NRS 455.131)

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

Section 1. Chapter 455 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *"Sewer main" means a sewer line with a diameter that exceeds 6 inches.*

Sec. 3. *"Sewer service lateral" means a pipe or conduit that connects a building or other property to a sewer main.*

Sec. 4. *If an operator of a sewer main receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110:*

*1. For a proposed excavation or demolition, the operator of the sewer main shall provide the person responsible for the excavation or demolition with the operator's best available information regarding the location of the connection of the sewer service lateral to the sewer main. The operator shall convey the information to the person responsible for the excavation or demolition in such manner as is determined by the operator which may include any one or more of the following methods, without limitation:*

*(a) Identification of the location of the connection of the sewer service lateral to the sewer main;*

*(b) Providing copies of documents relating to the location of the sewer service lateral within 2 working days; or*

*(c) Placement of a triangular green marking along the sewer main or the edge of the public right-of-way, pointing toward the real property serviced by the sewer service lateral to indicate that the location of the sewer service lateral is unknown.*

*2. The operator of a sewer main shall make its best efforts to comply with paragraph (a) or (c) of subsection 1 within 2 working days. If an operator of a sewer main cannot complete the requirements of paragraph (a) or (c) of subsection 1 within 2 working days, then the operator and the person responsible for the excavation or demolition must mutually agree upon a reasonable amount of time within which the operator must comply.*

*3. A government, governmental agency or political subdivision of a government that operates a sewer main may charge a person responsible for*

*excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section. Costs assessed pursuant to this subsection are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.*

*4. If the operator of a sewer main has received the information required pursuant to NRS 455.131 or has otherwise identified the location of the sewer service lateral in the public right-of-way, then the operator of the sewer main shall be responsible thereafter to identify the location of the sewer service lateral from that information.*

Sec. 5. (Deleted by amendment.)

Sec. 6. *An operator of a sewer main shall maintain all information relating to the locations of connections of sewer service laterals to the sewer main:*

*1. Developed by the operator pursuant to section 4 of this act; or*

*2. Provided to the operator pursuant to subsection 2 of NRS 455.131.*

Sec. 7. *An operator of a sewer main who is not otherwise required by law to be responsible for the maintenance, operation, ownership or repair of a sewer service lateral that connects to the sewer main does not assume any further duty with respect to a sewer service lateral pursuant to this chapter nor become responsible for the maintenance, operation, ownership or repair of the sewer service lateral that connects to the sewer main solely because the operator complied with the provisions of NRS 455.080 to 455.180, inclusive, and sections 2 to 7, inclusive, of this act.*

Sec. 8. NRS 455.080 is hereby amended to read as follows:

455.080 As used in NRS 455.080 to 455.180, inclusive, *and sections 2 to 7, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 455.082 to 455.105, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 455.092 is hereby amended to read as follows:

455.092 "Excavation" means the movement or removal of earth, rock or other material in or on the ground by use of mechanical equipment or by the placement and discharge of explosives. The term includes augering, backfilling, *boring,* digging, ditching, drilling, grading, plowing-in, ripping, scraping, trenching and tunneling.

Sec. 10. NRS 455.107 is hereby amended to read as follows:

455.107 1. Except as otherwise provided in subsection 2, possession of a permit to conduct an excavation or demolition does not exempt a person from complying with the provisions of NRS 455.080 to 455.180, inclusive ~~[.]~~ *, and sections 2 to 7, inclusive, of this act.*

2. A person is exempt from complying with the provisions of NRS 455.080 to 455.180, inclusive, *and sections 2 to 7, inclusive, of this act,* if he obtains the written consent of all operators involved in the proposed excavation or demolition before he receives a permit to conduct the excavation or demolition.

Sec. 11. NRS 455.130 is hereby amended to read as follows:

455.130 1. Except in an emergency or as otherwise provided in subsection 2 ~~[,]~~ *or section 4 of this act,* if an operator receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110, the operator shall:

(a) Locate and identify the subsurface installations and, if known, the number of subsurface installations that are affected by the proposed excavation or demolition to the extent and to the degree of accuracy that the information is available in the records of the operator or can be determined by using techniques of location that are commonly used in the industry, except excavating, within 2 working days or within a time mutually agreed upon by the operator and the person who is responsible for the excavation or demolition;

(b) Remove or protect a subsurface installation as soon as practicable if the operator decides it should be removed or protected; and

(c) Advise the person who contacted the association for operators of the location of the subsurface installations of the operator that are affected by the proposed excavation or demolition.

2. The operator shall notify the person who contacted the association for operators if the operator has no subsurface installations that are affected by the proposed excavation or demolition.

Sec. 12. NRS 455.131 is hereby amended to read as follows:

455.131 1. ~~[An]~~ *Except as otherwise provided in subsection 2, an* operator shall, for each subsurface installation that is installed on or after October 1, 2005, which cannot be detected from or above the surface of the ground by means of either the material used in constructing the subsurface installation or a conductor within the subsurface installation, install a permanent device which designates or provides a means of detecting a subsurface installation through the use of a noninvasive method from or above the surface of the ground. Such a device includes, without limitation, a tracer wire or a marker.

2. *A person who connects a sewer service lateral to a sewer main shall, at the option of the operator of the sewer main:*

*(a) Install a permanent device as described in subsection 1 of a type designated by the operator of the sewer main at the connection of the sewer service lateral to the sewer main and where the sewer service lateral exits the public right-of-way and promptly provide the operator of the sewer main with the location of such permanent devices;*

*(b) Promptly provide the operator of the sewer main with the location of the connection of the sewer service lateral to the sewer main and where the sewer service lateral exits the public right-of-way as described by global positioning system coordinates which:*

*(1) Are either identified by latitude and longitude using decimal degrees or are identified using coordinates of the Universal Transverse Mercator system; and*

*(2) Specify for each coordinate whether the North American Datum of 1927, North American Datum of 1983 or the World Geodetic System 1984 was used; or*

*(c) Provide to the operator of the sewer main notification of when the sewer service lateral is exposed so that the operator of the sewer main can identify the location of the sewer service lateral.*

*3.* As used in this section:

(a) "Above ground marker" is a marker which is installed flush with the surface of the ground or which protrudes above the surface of the ground above a subsurface installation and includes information concerning the subsurface installation.

(b) "Electronic marker" is a marker which is buried at various depths below or near the surface of the ground above a subsurface installation and which contains a passive antenna that:

(1) Can be identified with detection equipment; and

(2) Does not require an internal power source.

(c) "Marker" is a device that physically designates the location of a subsurface installation at intermittent locations along or above the subsurface installation and includes, without limitation, an above ground marker or electronic marker.

(d) "Tracer wire" is a locating wire which is installed in conjunction with a subsurface installation and is connected to a transmitter that carries a signal which is read by a receiver above the surface of the ground for the detection of the location of the subsurface installation.

Sec. 13. NRS 455.150 is hereby amended to read as follows:

455.150 Any person who substantially complies with the provisions of NRS 455.080 to 455.180, inclusive, *and sections 2 to 7, inclusive, of this act* is not liable for the cost of repairing any damage to a subsurface installation which results from his excavation or demolition.

Sec. 14. NRS 455.170 is hereby amended to read as follows:

455.170 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the Public Utilities Commission of Nevada by the Attorney General, a district attorney, a city attorney, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. Any person who willfully or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, *and sections 2 to 7, inclusive, of this act* is liable for a civil penalty:

(a) Not to exceed $1,000 per day for each violation; and

(b) Not to exceed $100,000 for any related series of violations within a calendar year.

3. Any person who negligently violates any such provision is liable for a civil penalty:

(a) Not to exceed $200 per day for each violation; and

(b) Not to exceed $1,000 for any related series of violations within a calendar year.

4. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the Public Utilities Commission of Nevada upon receipt of a complaint by the Attorney General, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, a district attorney, a city attorney, the agency that issued the permit to excavate or the operator or the person responsible for the excavation or demolition.

5. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the Public Utilities Commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.080 to 455.180, inclusive, *and sections 2 to 7, inclusive, of this act* before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

6. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter.

7. Any person aggrieved by a determination of the Public Utilities Commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 703.373.

Sec. 15. NRS 455.180 is hereby amended to read as follows:

455.180 The provisions of NRS 455.080 to 455.170, inclusive, *and sections 2 to 7, inclusive, of this act* do not affect any civil remedies provided by law for personal injury or property damage and do not create a new civil remedy for any personal injury or property damage.

*Sec. 15.5.* *Section 4 of this act is hereby amended to read as follows:*

If an operator of a sewer main receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110:

1. For a proposed excavation or demolition, the operator of the sewer main shall provide the person responsible for the excavation or demolition with the operator's best available information regarding the location of the connection of the sewer service lateral to the sewer main. The operator shall convey the information to the person responsible for the excavation or demolition in such manner as is determined by the operator which may include any one or more of the following methods, without limitation:

(a) Identification of the location of the connection of the sewer service lateral to the sewer main;

(b) Providing copies of documents relating to the location of the sewer service lateral within 2 working days; or

(c) Placement of a triangular green marking along the sewer main or the edge of the public right-of-way, pointing toward the real property serviced by the sewer service lateral to indicate that the location of the sewer service lateral is unknown.

2. The operator of a sewer main shall make its best efforts to comply with paragraph (a) or (c) of subsection 1 within 2 working days. If an operator of a sewer main cannot complete the requirements of paragraph (a) or (c) of subsection 1 within 2 working days, then the operator and the person responsible for the excavation or demolition must mutually agree upon a reasonable amount of time within which the operator must comply.

3. A government, governmental agency or political subdivision of a government that operates a sewer main *:*

*(a) Except as otherwise provided in subsection 4, in a county with a population of 40,000 or more may not charge a person responsible for excavation or demolition in a public right-of-way for complying with this section.*

*(b) In a county with a population of less than 40,000* may charge a person responsible for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section. Costs assessed pursuant to this ~~[subsection]~~ *paragraph* are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.

4. *A government, governmental agency or political subdivision that operates a sewer main in a county with a population of 40,000 or more may charge a person responsible for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section if:*

*(a) The sewer system of the operator services not more than 260 accounts; and*

*(b) There is no natural gas pipeline located within the service area of the operator of the sewer main,*

*➥ costs assessed pursuant to this subsection are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.*

*5.* If the operator of a sewer main has received the information required pursuant to NRS 455.131 or has otherwise identified the location of the sewer service lateral in the public right-of-way, then the operator of the sewer main shall be responsible thereafter to identify the location of the sewer service lateral from that information.

Sec. 16. 1. On or before December 31, 2010, each operator of a sewer main shall submit a report to the Director of the Legislative Counsel Bureau

for transmission to the 76th Session of the Nevada Legislature which provides:

(a) The number of sewer service lateral connections that the operator of the sewer main has identified between October 1, 2009, and September 30, 2010;

(b) The method that the operator of the sewer main used to locate such sewer service lateral connections; and

(c) The costs accrued by the operator of the sewer main to locate such sewer service lateral connections.

2. As used in this section:

(a) "Operator" has the meaning ascribed to it in NRS 455.096.

(b) "Sewer main" has the meaning ascribed to it in section 2 of this act.

(c) "Sewer service lateral" has the meaning ascribed to it in section 3 of this act.

Sec. 17. 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. 18. 1. This section and sections 1 to 15, inclusive, 16 and 17 of this act become effective on October 1, 2009.*

*2. Section 15.5 of this act becomes effective on January 1, 2011.*

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This provides that after January 1, 2011, in counties whose population is 40,000 or more, a government, governmental agency or political subdivision that operates a sewer main in that county may not charge a person responsible for the excavation or demolition in a public right-of-way for complying with provisions concerning the marking of a sewer lateral. However, the operator may charge the responsible person for the actual costs to the operator if: (1) the operator's sewer system services not more than 260 accounts; and (2) there is no natural gas pipeline located within the service area of the operator of the sewer main.

It provides that after January 1, 2011, in counties whose population is less than 40,000, a government, governmental agency or political subdivision that operates a sewer main in that county may charge a person responsible for the excavation or demolition in a public right-of-way in an amount not to exceed the actual costs for the operator to comply with provisions requiring the marking of a sewer lateral.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 90.

Bill read second time.

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

Amendment No. 651.

"SUMMARY—Revises certain provisions concerning the investigation and prosecution of deceptive trade practices. (BDR 52-269)"

"AN ACT relating to deceptive trade practices; requiring that information obtained in the course of certain investigations and proceedings be kept

confidential in certain circumstances; authorizing the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows the Attorney General to investigate suspected deceptive trade practices and to institute proceedings to seek certain remedies for such violations. (Chapter 598 of NRS)

Section 1 of this bill requires that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances. Section 1 also authorizes the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Attorney General, in the course of the investigation of any alleged violations of this chapter, may obtain and use any intelligence, investigative information or other information obtained ~~[as the result of a subpoena or civil investigative demand]~~ by or made available to the Attorney General . ~~[on a confidential or similarly restricted basis. Any]~~ Except as otherwise provided in subsections 2 and 3, any such intelligence or information received must retain its confidential status under the laws of this State until the Attorney General institutes civil or criminal proceedings and is exempt from the provisions of NRS 239.010.*

*2. ~~[The Attorney General may withhold from public inspection or refuse to disclose to a person, for such time as the Attorney General considers necessary, any intelligence or information obtained pursuant to subsection 1 or NRS 598.0963 that, in the Attorney General's judgment, would impede or otherwise interfere with an investigation that is currently pending.~~*

*~~3. The]~~ Except as otherwise provided in subsection 4, the Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with State and local agencies, officials of the Federal Government and the several states, including, but not limited to, the sharing of information and evidence obtained in accordance with subsection 1 or NRS 598.0963.*

*3. The provisions of subsections 1 and 2 do not prohibit the Attorney General from disclosing any intelligence or information received pursuant to subsection 1, including, without limitation, the address or telephone number of a business or organization, before the Attorney General institutes civil or criminal proceedings if, in the discretion of the Attorney General, that disclosure is necessary to protect consumers and businesses.*

*4. If any information sought pursuant to an investigation of an alleged violation of this chapter includes a trade secret, the Attorney General shall*

*enter into, and be bound by, an agreement regarding limitations on the disclosure of that information to protect that trade secret. Notwithstanding the provisions of this section, the Attorney General shall not disclose that information in violation of the terms of the agreement. For the purposes of this subsection, "trade secret" has the meaning ascribed to it in NRS 600A.030.*

Sec. 2. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.*

Sec. 4. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.* The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a

subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 5. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.* Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* to particular persons or circumstances.

2. Service of any notice or subpoena must be made as provided in N.R.C.P. 45(c).

Sec. 6. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator

is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act;* and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 7. NRS 598.0973 is hereby amended to read as follows:

598.0973 1. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to NRS 598.0979 to 598.099, inclusive, *and section 1 of this act,* if the court finds that a person has engaged in a deceptive trade practice directed toward an elderly person or a person with a

disability, the court may, in addition to any other civil or criminal penalty, impose a civil penalty of not more than $12,500 for each violation.

2. In determining whether to impose a civil penalty pursuant to subsection 1, the court shall consider whether:

(a) The conduct of the person was in disregard of the rights of the elderly person or person with a disability;

(b) The person knew or should have known that his conduct was directed toward an elderly person or a person with a disability;

(c) The elderly person or person with a disability was more vulnerable to the conduct of the person because of the age, health, infirmity, impaired understanding, restricted mobility or disability of the elderly person or person with a disability;

(d) The conduct of the person caused the elderly person or person with a disability to suffer actual and substantial physical, emotional or economic damage;

(e) The conduct of the person caused the elderly person or person with a disability to suffer:

(1) Mental or emotional anguish;

(2) The loss of the primary residence of the elderly person or person with a disability;

(3) The loss of the principal employment or source of income of the elderly person or person with a disability;

(4) The loss of money received from a pension, retirement plan or governmental program;

(5) The loss of property that had been set aside for retirement or for personal or family care and maintenance;

(6) The loss of assets which are essential to the health and welfare of the elderly person or person with a disability; or

(7) Any other interference with the economic well-being of the elderly person or person with a disability, including the encumbrance of his primary residence or principal source of income; or

(f) Any other factors that the court deems to be appropriate.

Sec. 8. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* in a civil proceeding brought by the Commissioner, Director or Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554, for the same act.

Sec. 9. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the

State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.*

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act, NRS* 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This makes certain changes to the confidentiality of information used by the Attorney General to investigate suspected deceptive trade practices. The amendment allows the Attorney General to share certain information related to such an investigation before criminal or civil proceedings are initiated under certain circumstances. The amendment also stipulates that if the information received in the course of the investigation involves a trade secret, the Attorney General shall enter into and be bound by an agreement which limits the disclosure of information involving the trade secret.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 130.

Bill read second time.

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

Amendment No. 792.

"SUMMARY—Revises provisions governing ~~[the membership of a]~~ metropolitan police ~~[committee on fiscal affairs.]~~ *departments.* (BDR 22-632)"

"AN ACT relating to police departments; revising provisions governing the membership of a metropolitan police committee on fiscal affairs; *revising provisions governing negotiations between metropolitan police departments and their employees;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that each representative of a political subdivision that participates on a metropolitan police committee on fiscal affairs must be a member of the governing body of the political subdivision and serves at the pleasure of the governing body making the appointment. (NRS 280.130) ~~[This]~~ *Section 2 of this* bill provides instead that each member of the committee serves for a term of 2 years and may be removed *at any time* for cause by ~~[a majority vote of the other members of the committee.]~~ *the*

*governing body which appointed the member. Section 2 also increases the compensation of the general public member of the committee from $40 for each day of service to $80 for each day of service.*

*Existing law requires that in negotiations arising under chapter 288 of NRS between a metropolitan police department and its employees, the department must be represented by a metropolitan police committee on fiscal affairs or two persons designated by the committee and by the sheriff or a person designated by him. (NRS 280.320) Section 3 of this bill provides instead that the department must be represented solely by the sheriff or a person designated by him, and requires the sheriff to submit any agreement reached in the negotiations to the committee for its approval.*

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 280.130 is hereby amended to read as follows:

280.130 1. The committee consists of two representatives from each participating political subdivision.

2. Representatives of the participating political subdivisions are not entitled to receive any additional compensation or be reimbursed by the department for any expenses incurred while serving on the committee.

3. Each representative of a participating political subdivision must be a member of its governing body . ~~[and serves at the pleasure of the governing body making the appointment.]~~ *Except as otherwise provided in subsection 4, the term of each member of the committee is 2 years.* ~~*[The committee, by a majority vote of the other members, may remove a member of the committee at any time for cause.]*~~ *The governing body that appointed a member may remove the member at any time for cause.*

4. The members of the committee shall, by *a* majority vote, select an additional member of the committee from the general public from a list consisting of three persons nominated by each participating political subdivision and three persons nominated by the sheriff. That person:

(a) Must reside in the area served by the department.

(b) Shall serve until August 1 next succeeding and until his successor is selected.

(c) May succeed himself.

(d) Is entitled to receive as compensation ~~[$40]~~ *$80* for each day of service.

(e) Is entitled to reimbursement for his necessary travel and per diem expenses in the manner provided by the committee for the reimbursement of officers and employees of the department.

5. If the members of the committee fail to agree on the additional member to be selected pursuant to subsection 4 within 30 days after their initial meeting following the merger or by August 1 of any year thereafter, the additional member of the committee must be appointed by the Governor

without regard to the lists submitted. The person so appointed must reside in the area served by the department.

6. At its first meeting and in August of each year thereafter, the committee shall select one of its members to act as chairman.

*Sec. 3.* *NRS 280.320 is hereby amended to read as follows:*

280.320 1. A department is a local government employer for the purpose of the Local Government Employee-Management Relations Act and a public employer for the purpose of the Public Employees' Retirement Act.

2. In negotiations arising under the provisions of chapter 288 of NRS:

(a) ~~[The committee or two or more persons designated by it; and~~

~~(b)]~~ The sheriff or a person designated by him ~~[,~~

~~"~~] shall represent the department ~~[.]~~ *; and*

*(b) The sheriff shall submit any agreement reached in the negotiations to the committee for its approval.*

3. In negotiations arising under the provisions of chapter 288 of NRS, a school police unit must be considered a separate bargaining unit.

~~[Sec. 3.]~~ *Sec. 4.* This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Townsend.

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

SENATOR LEE:

The amendment clarifies that the governing body, who appointed the member, instead of the members of fiscal affairs committee themselves, may remove a member from the committee for cause. It increases from $40 per day to $80 per day, the compensation of the general public member of the Metropolitan Police Committee on Fiscal Affairs. It provides that only the sheriff shall represent the Metropolitan Police Department in certain employee negotiations with its employees and states that the sheriff shall submit any agreements reached in the negotiations to the committee for approval.

SENATOR TOWNSEND:

On page 3, section 3, of the bill, which seems to be the heart of the bill, it states, "The Department is the local government employer for the purpose of Local Government Employee Management Relations Act and the public employer for the purpose of Public Employees Retirement Act." It goes on to say, "In negotiations arising under the provisions of chapter 288, it removes the committee of two or more persons designated by it and it replaces it with the sheriff." Am I to understand that the county and city is removed from this negotiation, with the county and city being those who actually pay the employee's salary as well as their retirement? They are now being removed and are being replaced and represented only by the sheriff. Is that the way I read this amendment?

SENATOR LEE:

At this time, they have a system where they have the Sheriff and a city and a county representative at a meeting, like a prenegotiation. They will work, get an agreement, and then, they will go to the county commission or to the City of Las Vegas, the employer who will then ratify the contract if they deemed it to be acceptable. There is an interim position who was someone who watched the negotiations, but there were many negotiations that were not just with fiscal matters. There were other things the sheriff worked on back-and-forth with the member organization. By removing those two, they still get to discuss the fiscal side of an issue when the sheriff brings the agreement to the county commission and the city council to ratify it.

SENATOR TOWNSEND:

Since we placed this into law during my first session in 1983, has there been something that has occurred during those 28 years that has necessitated this potential change?

SENATOR LEE:

Historically, for 28 years, it worked well. Reluctantly, four years ago, the county had a commissioner who decided he was going to support whatever came out of the employee organizations' recommendations. They understood that he was in favor of this contract before they had seen the contract. There is no definition for "cause." The governing body decides what "cause" means. They pulled him out for cause. That is what started this issue of having someone taken out for cause. This was one instance they felt was a troubling point to them.

SENATOR TOWNSEND:

The answer is mutually exclusive from the question I originally addressed. I understand the need for subsection 3 of section 2 where the governing body that appointed a member may remove the member at anytime for cause. I respect that, and I think it is needed. Section 3 is an entirely different issue which is taking the city and county out of the discussion with regard to the deliberations for purposes of negotiating a contract. I appreciate that they can ratify it, but I believe that when you are the entity that is paying the bill, you have a right to be at the table at all times. I think those two are bifurcated. I appreciate the explanation.

SENATOR LEE:

That was the thrust of the bill. It was brought to the attention of the committee that the method was an impediment to the process. Whether that is or not, except for that one instance, it seemed like it had always worked. At this time, when the county had made that change, it showed the employee organization that they could get the contract working faster if they worked with the sheriff, come to an agreement with his agenda and his budget and then went for ratification.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 135.

Bill read second time.

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

Amendment No. 709.

"SUMMARY—Requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred. (BDR 30-617)"

"AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State to borrow money or otherwise become obligated and to issue state securities or other evidence of the obligations, subject to various requirements. (NRS 349.150-349.364) This bill requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations may be issued or incurred. The review is required of certain obligations which require future

state payments in an amount of $5,000,000 or more after the then-current budget biennium and which are not otherwise subject to review or exempt from review pursuant to statute. If the issuance or incurrence of an obligation is approved by the State Board of Finance, the State Treasurer is responsible for administering the issuance or incurrence of the obligation. This bill also allows the State Treasurer to exempt such obligations from review.

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

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:*

*(a) The state agency, officer or employee consults with the State Treasurer concerning:*

*(1) The structure of the obligation;*

*(2) The methods by which the obligation is to be sold or marketed, if applicable;*

*(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and*

*(4) The financial prudence of issuing or incurring the obligation in its proposed form;*

*(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and*

*(c) The State Board of Finance approves issuing or incurring the obligation.*

*2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.*

*3. Except as otherwise provided in subsection 2, the State Treasurer:*

*(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services*

*employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.*

*(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.*

*4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:*

*(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.*

*(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.*

*5. This section does not apply to:*

*(a) A state financial obligation which under its terms is expected to be fully paid and retired:*

*(1) With money appropriated on or before the date the obligation is issued or incurred;*

*(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or*

*(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.*

*(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.*

*(c) A state financial obligation of the Nevada System of Higher Education which is ~~[required]~~ :*

*(1) Required to be repaid from a source other than state appropriations ~~[.]~~ ; or*

*(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.*

*(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.*

*(e) A state financial obligation which is required by federal law.*

*(f) A state financial obligation to another governmental entity.*

*(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.*

*(h) A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.*

*(i) A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.*

*6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.*

*7. As used in this section:*

*(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:*

*(1) Unconditionally required to be made;*

*(2) Required to be made only if an appropriation therefor is made; or*

*(3) Required to be made only on the occurrence or nonoccurrence of other conditions.*

*(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.*

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the

supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is:

(1) Required to be repaid from a source other than state appropriations; or

(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) ~~[A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.~~

~~(i)]~~ A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a

public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 3. 1. This section and section 1 of this act become effective on July 1, 2009.

2. Section 2 of this act becomes effective on May 1, 2013.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. This amendment clarifies that the State Treasurer's review and the State Board of Finance's approval does not apply to a state financial obligation of the Nevada System of Higher Education which is incurred as a result of a lease, installment-purchase contract or lease-purchase contract that terminates if the Legislature fails to appropriate money for payments due pursuant to the lease or contract.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 140.

Bill read second time.

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

Amendment No. 771.

"SUMMARY—Makes various changes to provisions relating to foreclosures of real property. (BDR 2-228)"

"AN ACT relating to real property; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2 and 7 of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility. Sections 2 and 6.7 of this bill require, if the sale of property is a residential foreclosure, a separate notice to be served upon any tenant or subtenant, other than the judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee's power of

sale to inform the tenant or subtenant that the property is subject to a notice of sale. (NRS 21.130) Sections 3 and 8 of this bill make it unlawful for a person to willfully remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale which is posted on real property. (NRS 21.140, 107.084) Sections 4 and 6 of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. Sections 4 and 6 also authorize the appropriate governmental entity to assess a civil penalty of up to $1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) Section 5 of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days if the property has been sold as a residential foreclosure. Section 5 also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. Section 5 further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period if the property has been sold as a residential foreclosure. Finally, section 5 allows the new owner of the real property, if the property has been sold as a residential foreclosure, to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. Section 9 also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale

is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 ~~[nor]~~ *or* more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor ~~[;]~~ *and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;*

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than $500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse ~~[.]~~ *;* ~~*[and]*~~

*(4)* *Recording a copy of the notice in the office of the county recorder; and*

*(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.*

2. *If the sale of property is a residential foreclosure, the notice must include, without limitation:*

*(a) The physical address of the property; and*

*(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.*

*3. If the sale of property is a residential foreclosure, a separate notice must be* ~~*[served by personal delivery or by certified mail, return receipt requested,]*~~ *posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises* ~~*[at the same time]*~~ *not*

*later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must ~~[include, without limitation:~~*

*~~(a) A statement informing the tenant or subtenant that:~~*

*~~(1) A notice of the sale of the property has been issued;~~*

*~~(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to eviction proceedings; and~~*

*~~(3) The provisions of chapter 40 of NRS govern the applicable eviction proceedings; and~~*

*~~(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.]~~ be in substantially the following form:*

*NOTICE TO TENANTS OF THE PROPERTY*

*Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.*

*You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.*

*Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.*

*After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.*

*Under Nevada Revised Statutes 40.255, eviction proceedings may begin against you after you have been given a 3-day notice to quit.*

*If you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.*

*If you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.*

*Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:*

*(1) Delivering a copy to you personally in the presence of a witness;*

*(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or*

*(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.*

*If a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.*

*Under the Justice Court Rules of Civil Procedure:*

*(1) You will be given at least 10 days to answer a summons and complaint;*

*(2) If you do not file an answer, an order evicting you by default may be obtained against you;*

*(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and*

*(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.*

*4.* The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor *or any other person entitled to notice* has not been properly notified as required in this section and NRS 21.075 and 21.076.

*5. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.*

Sec. 3. NRS 21.140 is hereby amended to read as follows:

21.140 1. An officer selling without the notice prescribed by NRS 21.075, 21.076 and 21.130 forfeits $500 to the aggrieved party, in addition to his actual damages.

2. ~~[A]~~ *It is unlawful for a* person *to* willfully ~~[taking]~~ *take* down or ~~[defacing]~~ *deface* the notice posted pursuant to NRS 21.130, if done before the sale or, if the judgment is satisfied before sale, before the satisfaction of the judgment . ~~[, forfeits]~~ *In addition to any other penalty, any person who violates this subsection shall forfeit* $500 to the aggrieved party.

Sec. 4. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person in accordance with subsection 2.*

*2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:*

*(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;*

*(b) Preventing trespassers from remaining on the property;*

*(c) Preventing mosquito larvae from growing in standing water; and*

*(d) Preventing any other condition that creates a public nuisance.*

*3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:*

*(a) Describing the violation;*

*(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and*

*(c) Informing the person that he may contest the allegation pursuant to subsection 4.*

*4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.*

*5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:*

*(a) Commencing on the day following the expiration of the period of time described in subsection 3; or*

*(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.*

*6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:*

*(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and*

*(b) The violation cannot be corrected in the period of time described in subsection 3.*

*7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.*

*8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.*

*9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.*

*10. As used in this section, "applicable governmental entity" means:*

*(a) If the property is within the boundaries of a city, the governing body of the city; and*

*(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.*

Sec. 5. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as *otherwise* provided in ~~[subsection]~~ *subsections* 2 ~~[,]~~ *and 7*, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to quit has been served upon him ~~[, and also upon any~~

~~subtenant in actual occupation of the premises, pursuant to NRS 40.280,~~] may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.

2. *If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:*

*(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and*

*(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.*

*3. During the notice period described in subsection 2:*

*(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and*

*(b) The tenant or subtenant continues to have the rights, obligations and liabilities he had pursuant to chapter 118A of NRS under the lease or rental agreement which he entered into with the previous owner or landlord regarding the property.*

*4. The notice described in subsection 2 must contain a statement:*

*(a) Providing the contact information of the new owner to whom rent should be remitted;*

*(b) Notifying the tenant or subtenant that the lease or rental agreement he entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 2; and*

*(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law*

*constitutes a breach of the lease or rental agreement and may result in eviction proceedings.*

*5. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 2.*

*6. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:*

*(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or*

*(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:*

*(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or*

*(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 2.*

*7.* This section does not apply to the tenant of a mobile home lot in a mobile home park.

*8. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.*

Sec. 5.5. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection 5 of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. *Before a person may be removed as*

*prescribed in NRS 40.290 to 40.420, inclusive, a landlord shall file with the court proof of service of any notice required pursuant to NRS 40.255.* Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.7 of this act.

Sec. 6.3. *1. Any vacant residential property purchased or acquired by a person at a trustee's sale pursuant to NRS 107.080 must be maintained by that person in accordance with subsection 2.*

*2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:*

*(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;*

*(b) Preventing trespassers from remaining on the property;*

*(c) Preventing mosquito larvae from growing in standing water; and*

*(d) Preventing any other condition that creates a public nuisance.*

*3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:*

*(a) Describing the violation;*

*(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and*

*(c) Informing the person that he may contest the allegation pursuant to subsection 4.*

*4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.*

*5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:*

*(a) Commencing on the day following the expiration of the period of time described in subsection 3; or*

*(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.*

*6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:*

*(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and*

*(b) The violation cannot be corrected in the period of time described in subsection 3.*

*7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.*

*8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.*

*9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.*

*10. As used in this section, "applicable governmental entity" means:*

*(a) If the property is within the boundaries of a city, the governing body of the city; and*

*(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.*

Sec. 6.7. *1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default ~~[,]~~ and election to sell and the notice of sale must:*

*(a) Be posted in a conspicuous place on the property ~~[on the same day]~~ not later than 3 business days after the notice of default ~~[,]~~ and election to sell ~~[and]~~ or the notice of sale is recorded pursuant to NRS 107.080; and*

*(b) Include, without limitation:*

*(1) The physical address of the property; and*

*(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.*

*2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.*

*3. A separate notice must be ~~[served upon]~~ posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or his successor in interest, in*

*actual occupation of the premises ~~[at the same time]~~ not later than 3 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must ~~[be served in the manner prescribed in NRS 40.280 and must include, without limitation:~~*

*~~(a) A statement informing the tenant or subtenant that:~~*

*~~(1) A notice of the sale of the property has been issued;~~*

*~~(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to the eviction process; and~~*

*~~(3) The provisions of chapter 40 of NRS govern the applicable eviction process; and~~*

*~~(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.]~~ be in substantially the following form:*

*NOTICE TO TENANTS OF THE PROPERTY*

*Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.*

*You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.*

*Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.*

*After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.*

*Under Nevada Revised Statutes 40.255, eviction proceedings may begin against you after you have been given a 3-day notice to quit.*

*If you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.*

*If you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.*

*Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:*

*(1) Delivering a copy to you personally in the presence of a witness;*

*(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or*

*(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person*

*residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.*

*If a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.*

*Under the Justice Court Rules of Civil Procedure:*

*(1) You will be given at least 10 days to answer a summons and complaint;*

*(2) If you do not file an answer, an order evicting you by default may be obtained against you;*

*(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and*

*(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.*

*4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.*

Sec. 7. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

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

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of

default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, ~~[and]~~ to the person who holds the title of record on the date the notice of default and election to sell is recorded ~~[.]~~ *and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health,* at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must ~~[describe]~~ *:*

*(a) Describe* the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2 ~~[.]~~ *; and*

*(b) If the property is a residential foreclosure, comply with the provisions of section 6.7 of this act.*

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor , ~~[and]~~ any other person entitled to notice pursuant to this section *and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health,* by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated ~~[.]~~ *; and*

*(d) If the property is a residential foreclosure, complying with the provisions of section 6.7 of this act.*

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[,]~~ *or any applicable provision of section 6.7 of this act;*

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

*8. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence"* ~~*[means]*~~ *:*

*(a) Means a structure that is comprised of not more than four units.*

*(b) Does not include any time share or other property regulated under chapter 119A of NRS.*

Sec. 8. NRS 107.084 is hereby amended to read as follows:

107.084 ~~[A]~~ *It is unlawful for a* person ~~[who]~~ *to* willfully ~~[removes]~~ *remove* or ~~[defaces]~~ *deface* a notice posted pursuant to subsection 4 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default . ~~[,]~~ *In addition to any other penalty, any person who violates this section* is liable in the amount of $500 to any person aggrieved by the removal or defacing of the notice.

Sec. 9. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A landlord shall disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings.*

*2. A willful violation of subsection 1 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.*

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 771 to Assembly Bill No. 140 makes changes to the requirements for the notice to be provided to a tenant of a property on which foreclosure proceedings have commenced. The amendment also imposes a requirement that notices of sale and notices of liens be recorded in the appropriate office of county recorder. Finally, the amendment exempts time-share properties from the tenant-notice requirements in the measure. We did not feel that would be necessary.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 141.

Bill read second time.

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

Amendment No. 650.

"SUMMARY—Establishes a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers. (BDR 54-229)"

"AN ACT relating to mortgage lending; establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes the Mortgage Education, Research and Recovery Fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers. The provisions of this bill are patterned closely after the provisions in chapter 645 of NRS which establish a recovery fund for persons defrauded by real estate brokers. (NRS 645.841-645.8494)

Section 3 of this bill creates the Fund. Section 4 of this bill provides for money for the Fund. Sections 5-7 and 9-11 of this bill provide for administration of the Fund and payment of claims against the Fund. Section 8 of this bill requires the license of a licensee to be automatically suspended until he repays to the Fund any amount paid from the Fund to settle a claim against that licensee. Section 12 of this bill clarifies that this bill does not limit the authority of the Division of Mortgage Lending of the Department of Business and Industry to take disciplinary action against a licensee. Section 13 of this bill authorizes the Commissioner of Mortgage Lending to adopt regulations as needed for chapter 645F of NRS.

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

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, "Fund" means the Mortgage Education, Research and Recovery Fund created by section 3 of this act.*

Sec. 3. *1. The Mortgage Education, Research and Recovery Fund is hereby created as a special revenue fund.*

*2. A balance of not less than $300,000 must be maintained in the Fund, to be used for satisfying claims against persons licensed under chapters 645B and 645E of NRS as provided in sections 2 to 12, inclusive, of this act. Any balance over $300,000 remaining in the Fund at the end of any fiscal year must be set aside and used by the Commissioner for education and research relating to mortgages.*

*3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.*

Sec. 4. *The Commissioner shall adopt regulations prescribing a ~~[percentage of]~~ fee, in addition to the fees collected for the issuance or renewal of a license pursuant to chapters 645B and 645E of NRS , to be assessed at the time of issuance or renewal of a license and to be used for mortgage education, research and recovery. The ~~[amount]~~ additional fee must be deposited in the State Treasury for credit to the Fund, and must be used solely for the purposes provided in sections 2 to 12, inclusive, of this act.*

Sec. 5. *1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to chapter 645B or 645E of NRS, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to chapter 645B or 645E of NRS, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than $25,000 per judgment. The liability of the Fund does not exceed $100,000 for any person licensed pursuant to chapter 645B or 645E of NRS, whether he is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.*

*2. A person who is licensed pursuant to chapter 645B or 645E of NRS may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.*

*3. A copy of the:*

*(a) Petition;*

*(b) Judgment;*

*(c) Complaint upon which the judgment was entered; and*

*(d) Writ of execution which was returned unsatisfied,*

*➥ must be served upon the Commissioner and the judgment debtor and affidavits of service must be filed with the court.*

*4. Upon the hearing on the petition, the petitioner must show that:*

*(a) He is not the spouse of the debtor, or the personal representative of that spouse.*

*(b) He has complied with all the requirements of sections 2 to 12, inclusive, of this act.*

*(c) He has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to chapter 645B or 645E of NRS.*

*(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.*

*(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.*

*(f) He has made reasonable efforts to recover damages from each and every judgment debtor.*

*(g) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.*

Sec. 6. *1. Whenever the court proceeds upon a petition as provided in section 5 of this act, the Commissioner may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his own behalf.*

*2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of sections 2 to 12, inclusive, of this act.*

*3. The Commissioner may, subject to court approval, compromise a claim based upon the application of a petitioner. He shall not be bound by any prior compromise of the judgment debtor.*

Sec. 7. *1. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of sections 2 to 12, inclusive, of this act, the court shall enter an order directed to the Commissioner requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions*
*of and in accordance with the limitations contained in sections 2 to 12, inclusive, of this act.*

*2. If a petitioner has recovered a portion of his claim from sources other than the Fund, the Commissioner shall deduct the amount recovered from the other sources from the amount payable upon the claim.*

Sec. 8. *If the Commissioner pays from the Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, his license issued pursuant to chapter 645B or 645E of NRS must be automatically suspended upon the effective date of an order by the court authorizing payment from the Fund. The license may not be reinstated and no other license may be granted to him pursuant to chapter 645B or 645E of NRS until he has repaid in full, plus interest at a rate equal to the prime rate*

*at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner, and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.*

Sec. 9. *1. Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.*

*2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.*

*3. Upon petition of the Commissioner, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.*

*4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Commissioner shall, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to sections 8 and 10 of this act must be deposited in the State Treasury for credit to the account for education and research in the Fund.*

Sec. 10. *When the Commissioner has paid from the Fund any money to the judgment creditor, the Commissioner is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Commissioner on the judgment must be deposited in the State Treasury for credit to the Fund.*

Sec. 11. *The failure of a person to comply with any of the provisions of sections 2 to 12, inclusive, of this act shall constitute a waiver of any rights hereunder.*

Sec. 12. *Nothing contained in sections 2 to 12, inclusive, of this act limits the authority of the Division to take disciplinary action against a licensee for a violation of any of the provisions of chapter 645B or 645E of NRS, or of the rules and regulations of the Division, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 645B or 645E or the rules and regulations promulgated thereunder.*

Sec. 13. NRS 645F.250 is hereby amended to read as follows:

645F.250 *1.* The Commissioner and the Division shall administer the provisions of this chapter and chapters 645A, 645B and 645E of NRS,

subject to administrative supervision by the Director of the Department of Business and Industry.

2. The Commissioner shall adopt any regulations that are necessary to carry out the provisions of this chapter.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 650 to Assembly Bill No. 141 provides that the recovery-fund fee is a new, additional fee for mortgage agent, banker and broker licensees, rather than a percentage of existing licensing fees. This will be an additional fee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 144.

Bill read second time.

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

Amendment No. 649.

"SUMMARY—Revises various provisions relating to loans secured by liens on real property. (BDR 54-89)"

"AN ACT relating to real property; prohibiting public disclosure of the results of an annual examination of a mortgage broker under certain circumstances; revising provisions relating to appraisals of real property securing a loan in which an investor invests money; revising requirements which relate to the release of certain information on various mortgage brokers regarding ownership and management structure, annual or biennial examinations and other examinations or audits, investigations or hearings; suspending or revoking the license of certain mortgage brokers who receive the lowest possible rating on two consecutive annual or biennial examinations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires annual or biennial examinations for various mortgage brokers. (NRS 645B.060) Section 1 of this bill prohibits the results of an annual examination from being released to the public until after a period of time set by the Commissioner of Mortgage Lending to determine any objections made by the mortgage broker to the results.

Existing law provides requirements regarding certain information on mortgage brokers that is to be made available for public inspection. (NRS 645B.090) Section 2 of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. The revised requirements relate to information regarding ownership and management structure, annual or biennial examinations, other examinations or audits, investigations or hearings, and standards for withholding other information.

Existing law prohibits a mortgage broker or mortgage agent from accepting money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless the mortgage broker has first obtained a written appraisal of the real property securing the loan. (NRS 645B.300) Section 2.5 of this bill requires the appraisal to be made not more than 6 months before the mortgage broker's first solicitation for the loan and the appraisal to meet certain standards. Section 2.5 further requires a mortgage broker to make additional disclosures to an investor if the investor waives the requirement that an appraisal be obtained.

Existing law provides requirements regarding disciplinary action for certain violations of law relating to the business of a mortgage broker. (NRS 645B.690) Section 3 of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. If such a mortgage broker receives the lowest possible rating on two consecutive annual or biennial examinations, the license of that mortgage broker will be suspended or revoked.

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

Section 1. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt regulations:

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until ~~[any objections made by the mortgage broker have been decided by the Commissioner.]~~ *after a period of time set by the Commissioner to determine any objections made by the mortgage broker.*

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct ~~[biennial]~~ examinations of a mortgage broker , ~~[instead of annual examinations,]~~ as described in paragraph (d) of subsection 2, *on a biennial instead of an annual basis* if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

Sec. 2. NRS 645B.090 is hereby amended to read as follows:

645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.

2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such

time as the Commissioner considers necessary, any information that, in his judgment, would:

(a) Impede or otherwise interfere with an investigation *or examination* that is currently pending against a mortgage broker;

(b) Have an undesirable effect on the welfare of the public ~~[or the welfare of any mortgage broker or mortgage agent; or~~

~~(c) Give any mortgage broker a competitive advantage over any other mortgage broker.]~~ *; or*

*(c) Reveal personal information in violation of NRS 239B.030.*

3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker to any person who requests it : ~~*[, including, without limitation, a member of the news media:]*~~

(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter and which has resulted in a finding by the Commissioner that the mortgage broker committed a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; ~~[and]~~

(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter ~~[.]~~ *; and*

*(c) If the mortgage broker makes or offers for sale in this State any investments in promissory notes secured by liens on real property:*

*(1) Any information in the possession of the Commissioner regarding the present and past ownership and management structure of the mortgage broker; and*

*(2) The findings and results of:*

*(I) All examinations or investigations of the mortgage broker conducted pursuant to NRS 645B.060 during the immediately preceding 5 years, including, without limitation, annual or biennial examinations of the mortgage broker conducted pursuant to NRS 645B.060, including, without limitation, the rating for each annual or biennial examination and an explanation of the standards for determining that rating; and*

*(II) Any other examination or audit, investigation or hearing which has been completed during the immediately preceding 3 years against the mortgage broker pursuant to the provisions of this chapter.*

Sec. 2.5. NRS 645B.300 is hereby amended to read as follows:

645B.300 1. Except as otherwise provided in subsection 4, a mortgage broker or mortgage agent shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker has obtained a written appraisal of the real property securing the loan.

2. The written appraisal of the real property:

(a) *Must be completed not more than 6 months before the mortgage broker's first solicitation for the loan;*

*(b) Must meet the standards set forth in the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of The Appraisal Foundation;*

*(c)* Must be performed by an appraiser who is authorized to perform appraisals in this State ~~[,]~~ *or in the state where the real property securing the loan is located;* and

~~[(b)]~~ *(d)* Must not be performed by the mortgage broker or a mortgage agent, unless the mortgage broker or mortgage agent is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.

3. A copy of the written appraisal of the real property must be:

(a) Maintained at each office of the mortgage broker where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and

(b) Made available during normal business hours for inspection by each such investor and the Commissioner.

4. A mortgage broker is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.

5. *If the mortgage broker obtains a written waiver of the appraisal as provided in subsection 4, the mortgage broker shall provide to each investor before he accepts any money from the investor a separate written disclosure which contains the information analyzed, the valuation methods and techniques employed and the reasoning for any opinion regarding value provided by or on behalf of the mortgage broker.*

*6.* As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.

Sec. 3. NRS 645B.690 is hereby amended to read as follows:

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

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

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

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall *suspend or* revoke it.

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

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

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

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

*3. If a mortgage broker:*

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

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

➥ *the Commissioner shall suspend or revoke the license of the mortgage broker.*

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 649 to Assembly Bill No. 144 removes a specific reference to persons who are members of the media for purposes of disclosure by the Commissioner of Mortgage Lending. There is a principle that when you start listing people, if the list is not correct, it could become contentious. By leaving it open, it applies to everyone.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 147.

Bill read second time.

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

Amendment No. 789.

"SUMMARY—Requires local governments, under certain circumstances, to grant preference to local bidders bidding on certain contracts for goods or services ~~[.]~~ *for a temporary period.* (BDR 27-753)"

"AN ACT relating to purchasing by local governments; requiring local governments, under certain circumstances, to grant a preference to local

bidders bidding on certain contracts for goods or services ~~[.]~~ *for a temporary period;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a 5-percent preference in bidding on public works and certain highway construction projects for contractors who provide evidence of the payment of certain taxes. (NRS 338.1389, 338.147, 338.1693, 338.1727, 408.3883, 408.3886) ~~[Sections]~~ *During the period between August 1, 2009, and July 31, 2013, sections* 1 and 2 of this bill provide for a 5-percent preference in bidding on local governmental purchasing contracts *for which the estimated annual amount required to perform exceeds $50,000* for contractors who qualify as a "local bidder," and set forth the criteria by which a bidder may qualify as a local bidder ~~[.]~~ *, including specific additional criteria if the contract is for the purchase of biodiesel blend fuel.*

Under existing law, certain local governmental contracts for certain goods and services are stated to be, by their nature, not adapted to award by competitive bidding. (NRS 332.115) ~~[Sections]~~ *During the period between August 1, 2009, and July 31, 2013, sections* 1 and 3 of this bill provide that, irrespective of this exclusion from competitive bidding, local governmental contracts for the following types of goods and services must reflect consideration for local contractors if the governing body of the local government or its authorized representative has a choice of more than one person or vendor to fulfill the contract: (1) professional services; (2) perishable goods; (3) insurance; (4) hardware and associated peripheral equipment and devices for computers; (5) software for computers; (6) books, library materials and subscriptions; (7) items for resale through a retail outlet operated in this State by a local government or the State of Nevada; and (8) the design of, and equipment and services associated with, systems of communication.

*Section 5 of this bill requires the submission of certain annual reports by local governments concerning any contracts awarded for which the estimated annual amount required to perform the contract exceeds $25,000 and contracts for goods and services not adapted to award by competitive bidding during the period between August 1, 2009, and July 31, 2013.*

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsections ~~[5 and 6,]~~ 6 and 7, with respect to the awarding of a contract pursuant to NRS 332.065 for which the estimated annual amount required to perform the contract is more than ~~[$25,000,]~~ $50,000, a responsive and responsible bidder who is a local bidder shall be deemed to have submitted a lower bid than a competing bidder who is not a local bidder if the amount of the bid of the local bidder is not more than 5 percent higher than the amount bid by the competing bidder.*

*2. With respect to the awarding of a contract of the type described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1 of NRS 332.115, if a governing body or its authorized representative has a choice of more than one person or vendor to fulfill the contract, at least one of whom is a local bidder, the contract must be awarded in such a manner as to reflect the preference described in subsection 6 of that section.*

*3. ~~[To]~~ Except as otherwise provided in subsection 4, to qualify as a local bidder for the purposes of this section:*

*(a) If the bidder is a business of which at least 51 percent of the ownership interest is held by a member of a minority group, a woman or a service-disabled veteran, the business must have continuously employed at least one full-time employee in this State during the immediately preceding 1-year period.*

*(b) If the bidder is a business that does not meet the requirements of paragraph (a), the business must have:*

*(1) Continuously conducted business operations in this State during the immediately preceding 2-year period; and*

*(2) Continuously employed at least one full-time employee in this State during the immediately preceding 2-year period.*

*4. If a governing body or its authorized representative is awarding a contract described in subsection 1 for the purchase of biodiesel blend fuel, in addition to the requirements set forth in subsection 3, to qualify as a local bidder, the bidder must provide to the governing body or its authorized representative a biodiesel blend fuel that is made from biodiesel fuel produced in this State.*

*5. Governing bodies and their authorized representatives ~~[shall]~~ may consult with the Purchasing Division of the Department of Administration to develop uniform standards for businesses to submit proof of their status for the purposes of subsection 3. Such uniform standards may include, without limitation, certification by reputable and reliable public or private entities to determine whether at least 51 percent of the ownership interest of a business is or is not held by a member of a minority group, a woman or a service-disabled veteran.*

*~~[5.]~~ 6. The provisions of this section do not require a local government or its authorized representative to award a contract to a bidder whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the bid.*

*~~[6.]~~ 7. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of this section, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.*

*~~[7.]~~ 8. As used in this section:*

*(a) "Biodiesel fuel" means a fuel that:*

*(1) Is composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and designated "B100"; and*

*(2) Meets the requirements of the ASTM International specification D6751.*

*(b) "Biodiesel blend fuel" means a blend of biodiesel fuel that:*

*(1) Meets the requirements of the D6751 with petroleum-based diesel fuel; and*

*(2) Is designated "BXX," where "XX" represents the volume percentage of biodiesel fuel in the blend.*

*(c) "Minority group" has the meaning ascribed to it in NRS 232.472.*

~~*[(b)]*~~ *(d) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of 0 percent or greater as determined by the United States Department of Veterans Affairs.*

Sec. 2. NRS 332.065 is hereby amended to read as follows:

332.065 1. If a governing body or its authorized representative has advertised for or requested bids in letting a contract, the governing body or its authorized representative must, except as otherwise provided in subsection 2, award the contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder ~~[may]~~ ~~*[must]*~~ *:*

*(a) Must, if the estimated annual amount required to perform the contract is more than $50,000, be judged on the basis of the status of the bidder as a local bidder, as determined pursuant to section 1 of this act; and*

*(b) May* be judged on the basis of:

~~[(a)]~~ *(1)* Price;

~~[(b)]~~ *(2)* Conformance to specifications;

~~[(c)]~~ *(3)* Qualifications;

~~[(d)]~~ *(4)* Past performance;

~~[(e)]~~ *(5)* Performance or delivery date;

~~[(f)]~~ *(6)* Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract;

~~[(g) *The status of the bidder as a local bidder, as determined pursuant to section 1 of this act;*~~

~~*(h)]*~~ *(7)* The best interests of the public; and

~~[(h)]~~ ~~*[(i)]*~~ *(8)* Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.

2. The governing body or its authorized representative:

(a) Shall give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than a comparable nonrecycled product.

(b) May give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than 5 percent more than a comparable nonrecycled product.

(c) May purchase recycled paper products if the specific recycled paper product is:

(1) Available at a price which is not more than 10 percent higher than that of paper products made from virgin material;

(2) Of adequate quality; and

(3) Available to the purchaser within a reasonable period.

3. If , after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he does not supply goods or services in accordance with the bid specifications, or if he repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

4. As used in this section:

(a) "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

(b) "Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

(1) Postconsumer waste; and

(2) Secondary waste,

➥ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(c) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.

Sec. 3. NRS 332.115 is hereby amended to read as follows:

332.115 1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(a) Items which may only be contracted from a sole source;

(b) Professional services;

(c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;

(d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;

(e) Perishable goods;

(f) Insurance;

(g) Hardware and associated peripheral equipment and devices for computers;

(h) Software for computers;

(i) Books, library materials and subscriptions;

(j) Motor vehicle fuel purchased by a local law enforcement agency for use in an undercover investigation;

(k) Motor vehicle fuel for use in a vehicle operated by a local law enforcement agency or local fire department if such fuel is not available within the vehicle's assigned service area from a fueling station owned by the State of Nevada or a local government;

(l) Purchases made with money in a store fund for prisoners in a jail or local detention facility for the provision and maintenance of a canteen for the prisoners;

(m) Supplies, materials or equipment that are available pursuant to an agreement with a vendor that has entered into an agreement with the General Services Administration or another governmental agency located within or outside this State;

(n) Items for resale through a retail outlet operated in this State by a local government or the State of Nevada;

(o) Commercial advertising within a recreational facility operated by a county fair and recreation board;

(p) Goods or services purchased from organizations or agencies whose primary purpose is the training and employment of persons with disabilities; and

(q) The design of, and equipment and services associated with, systems of communication,

➥ are not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

2. The purchase of equipment for use by a local law enforcement agency in the course of an undercover investigation is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The equipment is an electronic or mechanical device which by design is intended to monitor and document in a clandestine manner suspected criminal activity; or

(b) Purchasing the equipment pursuant to such requirements would limit or compromise the use of such equipment by an agency authorized to conduct such investigations.

3. The purchase of personal safety equipment for use by a response agency or any other local governmental agency is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The personal safety equipment will be used by personnel of the response agency or other local governmental agency in preventing, responding to or providing services of recovery or relief in connection with

emergencies, acts of terrorism or other natural or man-made disasters in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened; and

(b) The cost of the personal safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.

4. The governing body of a hospital required to comply with the provisions of this chapter, or its authorized representative, may purchase goods commonly used by the hospital, under a contract awarded pursuant to NRS 332.065, without additional competitive bidding even if at the time the contract was awarded:

(a) The vendor supplying such goods to the person awarded the contract was not identified as a supplier to be used by the person awarded the contract; or

(b) The vendor was identified as a supplier but was not identified as the supplier of such goods.

➥ The governing body of the hospital shall make available for public inspection each such contract and records related to those purchases.

5. This section does not prohibit a governing body or its authorized representative from advertising for or requesting bids.

6. *Notwithstanding the provisions of subsections 1 to 5, inclusive, and except as otherwise provided in subsections 7 and 8, if a governing body or its authorized representative is choosing between two or more businesses, contractors or vendors to fulfill a contract described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1, the governing body or authorized representative, as applicable, shall:*

*(a) Include within its selection criteria consideration of the following factors:*

*(1) The number of residents of this State that the business, contractor or vendor employs;*

*(2)* ~~*[The amount of taxes and fees paid by the business, contractor or vendor to state and local governmental entities in Nevada;*~~

~~*(3)]*~~ *The length of time in which the business, contractor or vendor has maintained business operations in this State or the applicable local jurisdiction; and*

~~*[(4)]*~~ *(3) If the contract to be fulfilled is a contract described in paragraph (b) of subsection 1, the number of owners and principals of the business, contractor or vendor who are residents of this State.*

*(b) If the governing body or authorized representative uses a point system or similar scoring rubric, and if one or more of the businesses, contractors or vendors being considered qualifies as a local bidder pursuant to section 1 of this act, the status of being a local bidder must account for not less than 5 percent of the points or score awarded.*

*7. The provisions of subsection 6 do not require a local government or its authorized representative to award a contract to a business, contractor or vendor whose quality of services, supplies, materials, equipment or labor*

*does not conform to the requirements of the local government or if the public interest would be served by rejection of the offer to fulfill the contract.*

*8. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of subsection 6, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.*

*9.* As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 239C.030.

(b) "Personal safety equipment" means safety equipment that personnel of a response agency or other local governmental agency:

(1) Use in the course of preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters; or

(2) Wear or otherwise carry on a regular basis.

➥ The term includes, without limitation, firearms, boots, bulletproof vests or other types of body armor, protective garments, protective eyewear, gloves, helmets, and any specialized apparatus, equipment or materials approved or recommended by the United States Department of Homeland Security.

(c) "Response agency" means an agency of a local government that provides services related to law enforcement, firefighting, emergency medical care or public safety.

Sec. 4. NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed $35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of chapter 623 of NRS or this chapter.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees ~~[.]~~ *, but this sentence does not prohibit consideration of the factors set forth in subsection 6 of NRS 332.115.* If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him, the public agency may terminate negotiations and select another engineer, land surveyor or architect.

Sec. 5. ~~[Each]~~ *1. Except as otherwise provided in subsection 3, each* local government that awards a contract *for which the estimated annual amount required to perform the contract is more than $25,000* in accordance with the provisions of ~~[section 1 of this act]~~ *NRS 332.065, as amended by section 2 of this act,* or *a contract pursuant to* NRS 332.115, as amended by section 3 of this act, ~~[or both,]~~ shall, on or before October 1 of each year in which it awards such a contract, submit to the Director of the Legislative Counsel Bureau a report ~~[setting forth:~~

~~1.]~~ *detailing those contracts on the form prescribed by the Committee on Local Government Finance.*

*2. Before August 1, 2009, the Committee on Local Government Finance shall prescribe a form for the report described in subsection 1, which must include, without limitation:*

*(a)* The *total* number of ~~[transactions conducted]~~ *contracts described in subsection 1 awarded* by the local government ~~[that are subject to the provisions of this act.~~

~~2. The number of businesses, contractors and vendors that qualified as local bidders pursuant to section 1 of this act.~~

~~3.]~~ *during the year to which the report pertains; and*

*(b)* A description of each ~~[type of transaction conducted by the local government which was subject to the provisions of this act,]~~ *such contract,* including, without limitation:

~~[(a) Whether the transaction was for goods or services.~~

~~(b)~~ *(1) The name of the person or entity to whom the contract was awarded.*

*(2)* The particular type of goods or services involved in the ~~[transaction.~~

~~(c)~~ *contract.*

*(3)* The total dollar amount of the ~~[transaction.~~

~~4. The number of businesses, contractors and vendors that:~~

~~(a) Were awarded a contract without being qualified as a local bidder or without receiving any consideration as a local bidder.~~

~~(b) Were awarded a contract, in whole or in part, because they were qualified as a local bidder or received consideration as a local bidder. The information required pursuant to this paragraph must include, for each such contract, the dollar amount of the contract.~~

~~5. Any other information determined to be relevant by the Director of the Legislative Counsel Bureau.]~~ *contract.*

*(4) Whether the person or entity to whom the contract was awarded was awarded the contract as a result of subsection 1 or 2 of section 1 of this act.*

*(5) If the person or entity to whom the contract was awarded was not qualified as a local bidder pursuant to section 1 of this act, the number of qualified local bidders that bid on the contract.*

*3. The report required to be submitted in 2013 pursuant to subsection 1 must be submitted by July 31, 2013, and must include the required information that is current through June 30, 2013.*

Sec. 6. This act becomes effective on ~~[July]~~ *August* 1, 2009 ~~[.]~~ *, and expires by limitation on July 31, 2013.*

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee, Carlton and Cegavske.

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

SENATOR LEE:

Amendment No. 789 to Assembly Bill No. 147 raises the applicability of the bidding preference set forth in the bill from contracts over $25,000 to contracts over $50,000.

It clarifies the procedures for the use of a bidder's preference for the purchase of biodiesel blend fuel.

It specifies that a bidder's status as a local bidder must be considered when awarding a contract for greater than $50,000.

It deletes provisions that would have required a governing body or its authorized representative to consider the amount of taxes and fees paid by the business, contractor or vender when awarding certain purchasing contracts that are not subject to competitive bidding.

The amendment clarifies the form and content of the annual reports submitted to the Nevada Legislature and provides that the reports must include details of contracts awarded in the amount of $25,000 or more and, finally, sets forth a sunset provision for the measure of July 31, 2013.

SENATOR CARLTON:

Thank you, Mr. President. I would like to know why we raised the amount from $25,000 to $50,000. If I understand correctly, the purpose behind the bill was to give Nevada companies an opportunity to get a bidding preference. Why would we raise the amount when that would actually limit Nevada companies?

SENATOR LEE:

The $25,000 was first considered by the sponsor of the bill, but after negotiations with the City of Las Vegas and procurement people, it was decided that $50,000 would be a better level. Most of the contractors that they were working with were usually over $50,000. They continue to do the $50,000 below, usually locally. The $50,000 above became where more of the contracts they wanted to capture, but were not getting.

SENATOR CEGAVSKE:

I have many questions on this bill, especially, on page 4. There is a definition of biodiesel fuel I would like explained. Section 5 on page 8, my colleague from Clark District 2 asked about the money portion and is there more to this? I would like to understand the rational, the changes and why you are making the governing body or its representative award the contracts for the purchase? It states, "requirements set forth in subsection 3." Could you explain the bill?

SENATOR LEE:

In southern Nevada, there is a company that collects the restaurant oils and greases. They are the purchaser and the wholesaler of the biodiesel. I would like to get a better answer for you later.

Senator Lee moved that Assembly Bill No. 147 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Assembly Bill No. 151.

Bill read second time.

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

Amendment No. 775.

"SUMMARY—Makes various changes concerning mortgage lending. (BDR 54-567)"

"AN ACT relating to mortgage lending; requiring a mortgage broker to include his license number on any loan secured by a lien on real property for which he engages in activity as a mortgage broker; requiring certain financial institutions that offer nontraditional mortgage loan products to make certain disclosures to borrowers with respect to nontraditional mortgage loans; requiring such financial institutions to certify such disclosures to the Commissioner of Financial Institutions; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires a mortgage broker to include his license number on each loan secured by a lien on real property for which he engages in activity as a mortgage broker. If a mortgage broker fails to comply with section 1, the Commissioner of Mortgage Lending may impose an administrative fine of not more than $10,000 and may place conditions on the license of the mortgage broker or suspend or revoke the license. (NRS 645B.670) In addition, a mortgage broker who fails to comply with section 1 is guilty of a misdemeanor. (NRS 645B.950)

Section 2 of this bill requires a financial institution that offers nontraditional mortgage loan products to make certain written disclosures to a borrower with respect to a nontraditional loan secured by a lien on real property. The disclosures must be written in language that is easy to understand and printed in *at least* 10-point type or font. In addition, section 2 requires the financial institution to certify to the Commissioner of Financial Institutions that the disclosures have been made. Section 2 also authorizes the financial institution to contract with a nonprofit *or government-operated* consumer credit counseling ~~[,]~~ *or* housing counseling *agency* or *a nonprofit or government-operated* legal services agency to make the required certifications. A financial institution that fails to comply with section 2 is guilty of a misdemeanor. (NRS 668.115)

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

*A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes the license number of the mortgage broker.*

Sec. 2. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A financial institution which is required to be licensed pursuant to the provisions of this title or title 56 of NRS and which offers nontraditional mortgage loan products that are secured by liens on real property shall, with respect to each nontraditional mortgage loan made by the financial institution, disclose to the borrower adequate information concerning the actual costs and risks of the nontraditional mortgage loan product offered.*

*2. The disclosure required by subsection 1 must be written in language that is easy to understand, must be printed in at least 10-point bold type or font and must include, without limitation:*

*(a) Information concerning potential increases in monthly payments, including information describing the circumstances under which interest rates or negative amortization could reach the contractual limits;*

*(b) Information concerning the maximum monthly payment that the borrower may be required to pay if amortizing payments are required and the interest rate and negative amortization caps are reached;*

*(c) Information concerning the circumstances under which structural payment changes will occur, the amount of the new payments and the method of calculating the amount of the new payments;*

*(d) Information concerning negative amortization, including information describing the potential for increases in the principal balance and decreases in home equity and any other potential adverse consequences to the borrower resulting from negative amortization;*

*(e) If a nontraditional mortgage loan product includes prepayment penalties, information explaining the prepayment penalties and the amount of the penalties;*

*(f) If the financial institution offers full-document home loans in addition to low-document home loans, no-document home loans or stated-document home loans, information concerning any pricing premium that attaches to the low-document home loans, no-document home loans or stated-document home loans; and*

*(g) For payment option adjustable-rate mortgages, information explaining each payment option available and the effect on the loan balance of each payment option.*

*3. A financial institution required to make a disclosure pursuant to subsection 1 shall, with respect to each nontraditional mortgage loan made by the financial institution, certify to the Commissioner that the financial*

*institution has made the disclosure required by subsection 1. The financial institution may contract with a nonprofit or government-operated consumer credit counseling ~~[,]~~ or housing counseling agency or a nonprofit or government-operated legal services agency which has been operating as such for the immediately preceding 7 years to provide the certification required by this subsection.*

*4. As used in this section:*

*(a) "Low-document home loan" has the meaning ascribed to it in NRS 598D.100.*

*(b) "No-document home loan" has the meaning ascribed to it in NRS 598D.100.*

*(c) "Nonprofit or government-operated consumer credit counseling ~~[,]~~ or housing counseling ~~[or legal services]~~ agency" means:*

*(1) A person or organization which is recognized as ~~[exempt under]~~ a charitable organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3), and which is certified by the United States Department of Housing and Urban Development ~~[,]~~ as a Housing Counseling Agency;*

*(2) A government agency or government-operated organization which is certified by the United States Department of Housing and Urban Development as a Housing Counseling Agency; or*

*~~[(2)]~~ (3) A person or organization which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3), and which:*

*(I) As its primary business, provides specialized personal and group counseling services to a person who is seeking to purchase a home or obtain legal advice regarding a real estate transaction and who is suffering or who may suffer economic hardship because of the extension of credit;*

*(II) Acts as an agent for a person who is suffering or who may suffer economic hardship because of the extension of credit in his efforts to resolve his economic hardships;*

*(III) May receive money or any other thing of value for disbursement to one or more of the creditors of a person who is suffering or who may suffer economic hardship because of the extension of credit; and*

*(IV) If it has a board of directors, has a board of directors with a majority of members who are not employed by the agency or otherwise receive any direct or indirect financial benefit from the provision of any services by the agency.*

*(d) "Nonprofit or government-operated legal services agency" means an organization that provides legal services to low-income persons without charge, and:*

*(1) Is a government agency or government-operated organization; or*

*(2) Is recognized as a charitable organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3).*

*(e) "Nontraditional mortgage loan product" has the meaning ascribed to it in NRS 658.190 and also includes an adjustable-rate mortgage, a low-document home loan, a no-document home loan and a stated-document home loan.*

~~*[(e)]*~~ *(f) "Stated-document home loan" has the meaning ascribed to it in NRS 598D.100.*

Sec. 3. 1. The provisions of this act apply only to loans secured by liens on real property and nontraditional mortgage loan products offered on or after the effective date of this act.

2. For a loan secured by a lien on real property that is made on or after the effective date of this act but before October 1, 2009, a mortgage broker who does not include his license number on the loan as required by section 1 of this act may, without penalty, cure his failure to comply with section 1 of this act not later than 30 days after the date the loan is made.

3. For a nontraditional mortgage loan product offered on or after the effective date of this act but before October 1, 2009, a financial institution that:

(a) Is subject to the requirements of section 2 of this act; and

(b) Fails to comply with the provisions of section 2 of this act,

➥ may, without penalty, cure the failure to comply with section 2 of this act not later than 30 days after the date the nontraditional mortgage loan is made.

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

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 775 to Assembly Bill No. 151 specifies that disclosures related to nontraditional mortgage loans must be made in no less than 10-point, bold type or font. The amendment also clarifies that a financial institution may contract with governmental consumer-credit or housing-counseling agencies or governmental legal-services agencies to provide certification it has made such disclosures to the Commissioner of Financial Institutions. The amendment further provides additional criteria for defining governmental and nonprofit consumer-credit and housing-counseling agencies.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 225.

Bill read second time.

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

Amendment No. 849.

"SUMMARY—Revises certain provisions relating to county fire departments. (BDR 20-908)"

"AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical

facility; mandating that such an ordinance in a county whose population is 400,000 or more limit the number of such transports by the department ~~[and require an annual]~~ *; requiring a board of county commissioners in a county whose population is 400,000 or more to submit a quarterly* report to the Legislature *and the Legislative Committee on Health Care* of ~~[the fees charged for, and the number of, such transports;]~~ *various information relating to the transport of sick and injured persons to medical facilities;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) Section 1 of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees, except in counties for which a nonprofit corporation has been granted an exclusive franchise to provide ambulance service. Section 1 also requires that, in a county whose population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make annually to not more than 1,000 transports, with an exception for emergency situations in which a private ambulance is not available. Section 2 of this bill, with respect to a county that has already adopted an ordinance prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. Section 3 of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit ~~[an annual]~~ *a quarterly* report to the Legislature *and the Legislative Committee on Health Care* regarding the number of yearly transports made by the fire department and *all ambulance companies. The report must include, without limitation,* the fees charged for those transports ~~[.]~~ *, whether or not the persons transported had health insurance and what medical facilities the persons were transported to and from.*

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

Section 1. NRS 244.2961 is hereby amended to read as follows:

244.2961 1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the

distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. ~~[If]~~ *Except as otherwise provided in subsection 6, if* the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt ~~[:]~~ *an ordinance:*

(a) ~~[An ordinance:~~

~~(1)]~~ Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

~~[(2)]~~ *(b)* Establishing a schedule of such fees . ~~[; or~~

~~(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.]~~

3. *The board of county commissioners of a county whose population is 400,000 or more shall, when adopting an ordinance pursuant to subsection 2:*

*(a) Limit the number of transports of sick or injured persons to a medical facility that may be made by the fire department to not more than 1,000 such transports per year, except that the fire department may, exclusive of the limit, make any such emergency transport that is necessary for the health or life of a sick or injured person when other ambulance services are not available; and*

*(b) Require the fire department and all other ambulance services operating in the county to report to the board ~~[the]~~ :*

*(1) The total number of transports of sick or injured persons to a medical facility that are made ~~[by the fire department]~~ each month ~~[.]~~ ; and*

*(2) For each transport reported pursuant to subparagraph (1):*

*(I) The fees charged to transport the person to a medical facility;*

*(II) Whether the person had health insurance at the time of the transport; and*

*(III) The name of the medical facility where the fire department or ambulance service transported the person to or from.*

*4.* The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

~~[4.]~~ *5.* All persons employed to perform the functions of the fire department are employees of the county for all purposes.

*6. The provisions of subsection 2 do not apply to any county for which a nonprofit corporation has been granted an exclusive franchise for ambulance service in that county.*

Sec. 2. A board of county commissioners shall amend any ordinance previously adopted by that body which does not conform with the provisions of NRS 244.2961, as amended by section 1 of this act, by January 1, 2010. Any ordinance that does not comply with NRS 244.2961, as amended by section 1 of this act, by January 1, 2010, shall be deemed to conform with NRS 244.2961, as amended by section 1 of this act, by operation of law.

Sec. 3. The board of county commissioners of a county whose population is 400,000 or more shall *, each calendar quarter,* submit ~~[an annual]~~ *a* report to the *Legislative Committee on Health Care and the* Director of the Legislative Counsel Bureau ~~[not later than January 15 of each year]~~ for transmittal to the Legislature, if the Legislature is in session*,* ~~[that year,]~~ or to the Legislative Commission, if the Legislature is not in session*.* ~~[that year.]~~ The report must include, without limitation ~~[:~~

~~1. The fees charged by the fire department for transport of sick or injured persons to a medical facility; and~~

~~2.]~~ *, the following information related to each fire department and ambulance service operating in the county:*

*1.* The *total* number of ~~[such]~~ transports *of sick or injured persons to a medical facility* that ~~[are]~~ *were* made by the fire department ~~[each]~~ *or ambulance service during that* calendar ~~[year.]~~ *quarter*.

*2. For each person transported by the fire department or ambulance service during the calendar quarter:*

*(a) The fees charged to transport the person to a medical facility;*

*(b) Whether the person had health insurance at the time of transport; and*

*(c) The name of the medical facility where the fire department or ambulance service transported the person to or from.*

Sec. 4. This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 849 to Assembly Bill No. 225 enhances the reporting requirement set forth in the bill to provide that the report must be filed quarterly, be filed with the Legislative Committee on Health Care, provide information from all ambulance services in the county and to include a reporting of the fees charged for patient transports whether or not the transported persons had insurance and the name of the medical facilities the persons are transported to and from.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 266.

Bill read second time.

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

Amendment No 697.

"SUMMARY—Prohibits the sale of novelty lighters. (BDR 52-569)"

"AN ACT relating to lighters; prohibiting the sale of novelty lighters; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill prohibits the sale or distribution as a promotion of novelty lighters. This bill also provides a comprehensive definition of a "novelty lighter." This bill becomes effective on January 1, 2010.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, a person may not sell at retail, offer for retail sale or distribute for retail sale or promotion in this State a novelty lighter.*

*2. This section does not apply to the transportation of novelty lighters through this State or the storage of novelty lighters in a warehouse or distribution center in this State that is closed to the public for purposes of retail sales.*

*3. The Attorney General or any district attorney, on the request of the State Fire Marshal or on his own motion, may bring an action in any court of competent jurisdiction in the name of the State of Nevada to enjoin a violation of this section.*

*4. A person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than $500. No sentence of incarceration may be imposed.*

*5. As used in this section, "novelty lighter":*

*(a) Means a mechanical or electrical device which is typically used for lighting cigarettes, cigars or pipes that may operate on any fuel, including, without limitation, butane, isobutene or liquid fuel, and which:*

*(1) Is designed to resemble* *and reasonably does resemble* *a cartoon character, toy, gun, watch, musical instrument, vehicle, animal, food, beverage or other similar article* *[.]* *that does not resemble a standard disposable lighter;* *or*

*(2) Plays musical notes, has flashing lights or has* *[other similar entertaining features;]* *more than one button or function;* *and*

*(b) Does not include:*

*(1) A lighter manufactured before January 1, 1980;*

*(2) A lighter incapable of being fueled or lacking a device necessary to produce combustion or a flame;*

*(3) Any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills; or*

*(4) Standard disposable lighters that are printed or decorated, including, without limitation, through the use of a heat shrinkable sleeve, with logos, labels, decals or artwork.*

Sec. 2. This act becomes effective on January 1, 2010.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton and Cegavske.

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

SENATOR CARLTON:
We did not think this amendment was necessary. It was proposed by the ACLU. We did it.

SENATOR CEGAVSKE:
Having spent many years in retail, we often sell novelties at our store. This would fall under that category. What was the issue with the lighters? Does this ban everything, from what and from where?

SENATOR CARLTON:
The answer would be to the bill and not the amendment. The testimony that we had in the Committee on Commerce and Labor on these novelty lighters included a short clip of a film of a news broadcast that was done on these lighters. A number of them do look like toys. Children pick them up. You can teach a child not to play with a lighter, but it is hard to teach them not to play with a toy. There was an example in this clip, and we saw a lighter that looks just like a small, cute camera. If you click the button on the side, the flame comes out the top. A child puts the toy camera to his eye, then, clicks the button to take a picture. The flame comes out the top and burns the hair of the child. That convinced me. When they passed the lighters around in the Committee, members of the Committee played with the lighters, and they are dangerous. They look like toys, and children will pick them up and will be hurt by them. This piece of legislation addresses the safety concerns for children.

SENATOR CEGAVSKE:
I see in the amendment it states, "and reasonably does resemble" which was the issue I had with the bill. What did that mean, and how would we define that. How will a retailer determine what is or is not acceptable when they go to market to place orders. Is there a code? Can you buy any of them?

SENATOR CARLTON:
Is the concern about the amendment?

SENATOR CEGAVSKE:
Yes. The amendment states, "and reasonably does resemble … and does not resemble a standard disposable lighter … more than one button or function." How does one determine what can be sold? Are there any guidelines?

SENATOR CARLTON:
This was an amendment that was brought by the ACLU. It was agreed to by the sponsor. I did not believe it was necessary. I think a reasonable person can look at a lighter and tell whether it resembles a toy or a BIC and figure it out. There seems to be some distinguishing marks. That is the only question I can answer.

SENATOR CEGAVSKE:
I am concerned about the language. How would someone know what is reasonable. What happens? Are you fined? Is there a punishment? What are the consequences if you buy something that you do not understand to be something that looks like a toy? Who meant what in this? I have a concern about the language and putting it in the NRS.

Motion carried.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Senate in recess at 2:13 p.m.

SENATE IN SESSION

At 2:19 p.m.

President pro Tempore Schneider presiding.

Quorum present.

Assembly Bill No. 287.

Bill read second time.

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

Amendment No. 696.

"SUMMARY—Makes various changes concerning appraisals of real estate. (BDR 54-1019)"

"AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. Sections 1, 2, 24 and 27 of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

Section 23 of this bill revises the requirements for continuing education for appraisers.

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

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

*11. Any violation of section 4 of this act.*

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

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

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the

Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[.]~~ if the applicant:

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

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

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

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

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

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

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

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

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

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

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

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

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

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

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

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

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

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

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

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

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

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) *Has violated section 4 of this act;*

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

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

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

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

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

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

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

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

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

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

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

(i) *Has violated section 4 of this act;*

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

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

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 4 to 21, inclusive, of this act.

Sec. 4. *1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.*

*2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:*

*(a) Consider additional appropriate property information;*

*(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or*

*(c) Correct errors in his appraisal.*

Sec. 5. *"Appraisal firm" means a person, limited-liability company, partnership, association or corporation* ~~*[which,]*~~ *:*

*1. Which, for compensation, prepares and communicates appraisals* ~~*[.]*~~ *;*

*2. Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and*

*3. Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.*

Sec. 6. *1. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:*

*[1.] (a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;*

*[2.] (b) Administers a network of appraisers performing real estate appraisal services as independent contractors;*

*[3.] (c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or*

*[4.] (d) Otherwise serves as a third-party broker of appraisal services.*

*[→]*

*2. The term does not include [an] :*

*(a) An appraisal firm [.] ;*

*(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;*

*(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and*

*(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.*

Sec. 7. *[1. There is hereby created the Account for Appraisal Management Companies in the State General Fund. The Account must be administered by the Administrator.*

*2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, all money received by the Commission or the Division pursuant to sections 7 to 21, inclusive, of this act must be:*

*(a) Deposited in the Account;*

*(b) Accounted for separately; and*

*(c) Used only to administer the provisions of sections 7 to 21, inclusive, of this act.*

*3.] If the Commission imposes a fine or a penalty [,] or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General*

*Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.*

Sec. 8. *Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.*

Sec. 9. *The provisions of sections 7 to 21, inclusive, of this act do not apply to:*

*1. A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or*

*2. An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.*

Sec. 10. *1. A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:*

*(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;*

*(b) State the name under which the applicant will conduct business as an appraisal management company;*

*(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person;*

*(d) Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;*

*(e) Include a financial statement of the applicant; and*

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

*2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:*

*(a) The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.*

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

*(1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.*

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

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

*(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.*

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

*(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.*

*(c) The applicant certifies that he:*

*(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.*

*(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.*

*(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.*

*(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.*

Sec. 11. *1. In addition to any other requirements set forth in this chapter:*

*(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.*

*(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division 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 Division 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 registration; or*

*(b) A separate form prescribed by the Division.*

*3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:*

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

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

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

Sec. 12. *1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division 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 Division 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 registration; or*

*(b) A separate form prescribed by the Division.*

*3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:*

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

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

*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the*

*amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 13. *1. An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.*

*2. A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.*

*3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.*

*4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:*

*(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and*

*(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.*

*5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.*

*6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.*

Sec. 14. *A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:*

*1. An application for renewal;*

*2. The fee required to renew the registration pursuant to section 15 of this act; and*

*3. All information required to complete the renewal.*

Sec. 15. *A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:*

*1. To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than $2,500 for the principal office and not more than $100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.*

*2. To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than $500 for the principal office and not more than $100 for each branch office.*

Sec. 16. *1. If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.*

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

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

*(b) Any duties of a qualified employee; and*

*(c) Any requirements regarding a qualified employee.*

Sec. 17. *1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:*

*(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;*

*(b) Withholding or threatening to withhold future business for an independent appraiser;*

*(c) Terminating an agreement with an independent contractor without prior written notice;*

*(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;*

*(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;*

*(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;*

*(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be*

*loaned to a borrower, other than a copy of the sales contract for purchase transactions;*

*(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;*

*(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:*

*(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or*

*(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;*

*(j) Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards;*

*(k) Accepting a fee for performing appraisal management services if the fee is contingent on:*

*(1) An appraisal report having a predetermined analysis, opinion or conclusion;*

*(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or*

*(3) The consequences resulting from an appraisal assignment; or*

*(l) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.*

*2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.*

Sec. 18. *It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.*

Sec. 19. *1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.*

*2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny*

*renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.*

Sec. 20. *1. If the Division 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 holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 21. *1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than $10,000 if the applicant:*

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

*(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or*

*(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a registration or during the course of the investigation of the application for a registration.*

*2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than $10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:*

*(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;*

*(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;*

*(c) Has made a material representation in connection with any transaction governed by this chapter;*

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

*(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;*

*(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or*

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

Sec. 22. NRS 645C.010 is hereby amended to read as follows:

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, *and sections 5 and 6 of this act* have the meanings ascribed to them in those sections.

Sec. 23. NRS 645C.430 is hereby amended to read as follows:

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status , ~~[:~~

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,]~~ not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status . ~~[, not to exceed 60 hours of instruction.]~~

➥ *The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.*

2. As used in this section, an "hour of instruction" means at least 50 minutes of actual time spent receiving instruction.

Sec. 24. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) *Any violation of section 4 of this act;*

*(d)* A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

~~[(d)]~~ *(e)* The suspension ~~[or]~~ , revocation *or voluntary surrender in lieu of other discipline* of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than $10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

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

Sec. 25. NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insigne indicating membership in an organization for appraisers of which he is not a member;

2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;

3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;

4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

5. ~~[Enters]~~ *Prepares or provides or enters* into a contract to prepare *or provide* an appraisal ~~[by which]~~ *if* his compensation is based partially or

entirely on *, or is otherwise affected by,* the amount of the appraised value of the real estate;

6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or

7. Makes a false statement of material fact on his application.

Sec. 26. NRS 645C.555 is hereby amended to read as follows:

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license *, registration* or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license *, registration* or registration card or has not been given the required authorization; or

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

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

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

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

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

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

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

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

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 27. NRS 645E.670 is hereby amended to read as follows:

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

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

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

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

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

(a) Is insolvent;

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

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

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

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

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

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

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

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

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

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

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

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

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

(o) *Has violated section 4 of this act;*

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

~~[(p)]~~ *(q)* Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

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

Sec. 28. 1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 of this act expire by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 12 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 696 to Assembly Bill No. 287 provides additional definitions and exemptions for appraisal firms. The amendment also deletes references to a proposed Account for Appraisal Management Companies in the State General Fund and instead directs all revenue derived from the regulation of appraisal management companies directly into the General Fund.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 397.

Bill read second time.

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

Amendment No. 791.

"SUMMARY—Authorizes redevelopment agencies to expend money to improve schools located within certain areas under certain circumstances. (BDR 22-130)"

"AN ACT relating to community redevelopment; authorizing redevelopment agencies to expend money, subject to certain limitations, to improve schools located within certain cities or counties; requiring redevelopment agencies to file certain reports with the Director of the Legislative Counsel Bureau and with their respective governing bodies; *making an appropriation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the legislative body of a community, having recognized the need for a redevelopment agency to function in the community, to establish a redevelopment revolving fund. (NRS 279.386, 279.396, 279.410, 279.620) Existing law also specifies the manner in which, and the permissible purposes for which, money may be expended from the redevelopment revolving fund. (NRS 279.628) ~~[This]~~ *Section 4 of this* bill expands the permissible purposes for which money may be expended from a redevelopment revolving fund to include use by a redevelopment agency for the improvement, with certain limitations, of schools in a city or county with a redevelopment area within its boundaries. Sections 1 and 5 of this bill require a redevelopment agency to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature and to the legislative body of the community a report when the agency has established a new redevelopment area and annual reports thereafter containing certain information relating to the redevelopment area.

*Section 6 of this bill makes an appropriation of $15,000 to the Audit Division of the Legislative Counsel Bureau to conduct an audit of the use of property tax revenues received by redevelopment agencies.*

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

Section 1. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. In addition to the report required pursuant to the provisions of subsection 2, and subject to the provisions of subsection 3, for each redevelopment area for which a redevelopment plan is adopted pursuant to the provisions of NRS 279.586 after the effective date of this act, on or before the January 1 next after the adoption of the plan, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:*

*(a) A legal description of the boundaries of the redevelopment area;*

*(b) The date on which the redevelopment plan for the redevelopment area was adopted;*

*(c) The scheduled termination date of the redevelopment plan;*

*(d) The total sum of the assessed value of the taxable property in the redevelopment area for:*

*(1) The fiscal year immediately preceding the adoption of the redevelopment plan; and*

*(2) The fiscal year during which the redevelopment plan was adopted, if such fiscal year ends before the reporting deadline;*

*(e) The combined overlapping tax rate of the redevelopment area;*

*(f) The property tax rate of the redevelopment area;*

*(g) The property tax revenue expected to be received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area during the first fiscal year that the agency will receive an allocation pursuant to the provisions of NRS 279.676;*

*(h) Copies of any memoranda of understanding that the agency enters into during the fiscal year in which the redevelopment plan was adopted; and*

*(i) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.*

*2. On or before January 1 of each year, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area for the previous fiscal year:*

*(a) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area;*

*(b) The combined overlapping tax rate of the redevelopment area;*

*(c) The property tax rate of the redevelopment area;*

*(d) The total sum of the assessed value of the taxable property in the redevelopment area;*

*(e) If the amount reported pursuant to the provisions of paragraph (d) is less than the amount reported pursuant to the provisions of paragraph (d) for any other previous fiscal year, an explanation of the reason for the difference;*

*(f) Copies of any memoranda of understanding that the agency enters into;*

*(g) The amortization schedule for any debt incurred for the redevelopment area, and the reasons for incurring the debt; and*

*(h) Any change to the boundary of the redevelopment area and an explanation of the reason for the change.*

*3. Any report for a redevelopment area submitted pursuant to the provisions of subsection 1 must be submitted with the report for the redevelopment area submitted pursuant to the provisions of subsection 2.*

Sec. 2. NRS 279.382 is hereby amended to read as follows:

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, *and section 1 of this act,* may be cited as the Community Redevelopment Law.

Sec. 3. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NRS 279.628 is hereby amended to read as follows:

279.628 1. By resolution of the legislative body adopted by a majority vote any money in the redevelopment revolving fund may be expended from time to time for:

(a) The acquisition of real property in any redevelopment area.

(b) The clearance, aiding in relocation of occupants of the site and preparation of any redevelopment area for redevelopment.

2. By resolution of the legislative body adopted by a two-thirds vote, any money in the redevelopment revolving fund may be paid to the agency, upon such terms and conditions as the legislative body may prescribe for any of the following purposes:

(a) Deposit in a trust fund to be expended for the acquisition of real property in any redevelopment area.

(b) The clearance of any redevelopment area for redevelopment.

(c) Any expenses necessary or incidental to the carrying out of a redevelopment plan which has been adopted by the legislative body.

*(d) Subject to the provisions of subsection 3, to be used by the agency for the improvement of schools in the community.*

*3. Money paid to the agency pursuant to paragraph (d) of subsection 2 may only be in the form of grants and may not be used for any regular expenses of a school.*

Sec. 5. On or before January 1, 2010, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

1. A legal description of the boundaries of the redevelopment area;

2. The date on which the redevelopment plan for the redevelopment area was adopted;

3. The scheduled termination date of the redevelopment plan;

4. The total sum of the assessed value of the taxable property in the redevelopment area for:

(a) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(b) The fiscal year during which the redevelopment plan was adopted;

5. The combined overlapping tax rate of the redevelopment area;

6. The property tax rate of the redevelopment area;

7. The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area for the fiscal year ending June 30, 2009;

8. Copies of any memoranda of understanding that the agency enters into during the fiscal year ending June 30, 2009; and

9. The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

~~*Sec. 6.*~~ *1. There is hereby appropriated from the State General Fund to the Audit Division of the Legislative Counsel Bureau the sum of $15,000 for an audit of the use of property tax revenues received by redevelopment agencies.*

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

~~[Sec. 6.]~~ ~~*Sec. 7.*~~ This act becomes effective upon passage and approval.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

This amendment provides for a legislative audit of the use of property-tax revenues received by redevelopment agencies and makes a $15,000 appropriation for this purpose.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 401.

Bill read second time and ordered to third reading.

Assembly Bill No. 467.

Bill read second time.

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

Amendment No. 838.

"SUMMARY—Makes various changes relating to the prevailing wage requirements. (BDR 28-910)"

"AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[ Section 1 of this bill requires that statutes which specifically state that certain statutory provisions relating to the payment of prevailing wages apply to a construction project be construed, if the public body is not a party to the contract or agreement for the construction of the project, to: (1) require the person or entity executing the contract or agreement for the construction of the project to include in the contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work; (2) require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or awarded the contract; and (3) require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work. Section 1 of this bill makes a conforming change. (NRS 338.013)]~~

Section 21 of this bill provides that the prevailing wage requirements apply to certain *lease-purchase and* installment-purchase agreements by local governments. Sections *1.7, 1.9,* 22 ~~[and]~~ *, 22.5,* 24 *and 24.5* of this bill clarify ~~[that]~~ the *application of the* prevailing wage requirements ~~[apply]~~ to certain lease-purchase and installment-purchase contracts entered into by the State or its political subdivisions.

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

Section 1. ~~[Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Statutes which state that the provisions of NRS 338.010 to 338.090, inclusive, 338.013 to 338.090, inclusive, or 338.020 to 338.090, inclusive, apply to a construction project of any kind must be construed, if the public*~~

~~*body is not a party to the contract for the actual construction of the project, to:*~~

~~*1. Require the person or entity that executes one or more contracts or agreements for the actual construction of the project to include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to those statutory provisions.*~~

~~*2. Require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or had awarded the contract.*~~

~~*3. Require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work.]*~~ *(Deleted by amendment.)*

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. NRS 338.013 is hereby amended to read as follows:

338.013 1. A public body that ~~[advertises for bids for]~~ *undertakes* a public work shall request from the Labor Commissioner, and include in ~~[the]~~ *any* advertisement ~~[,]~~ *or other type of solicitation,* an identifying number with his designation of the work. That number must be included in any bid *or other document* submitted in response to the advertisement ~~[.]~~ *or other type of solicitation.*

2. Each public body which awards a contract for any public work shall report its award to the Labor Commissioner within 10 days after the award, giving the name and address of the contractor to whom the public body awarded the contract and the identifying number for the public work.

3. Each contractor engaged on a public work shall report to the Labor Commissioner and the public body that awarded the contract the name and address of each subcontractor whom he engages for work on the project within 10 days after the subcontractor commences work on the contract and the identifying number for the public work.

4. The public body which awarded the contract shall report the completion of all work performed under the contract to the Labor Commissioner before the final payment of money due the contractor by the public body.

*Sec. 1.9. NRS 244.286 is hereby amended to read as follows:*

244.286 1. The board of county commissioners of any county may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the board of county commissioners and thereupon enter into a lease or a lease-purchase agreement with the board of county commissioners for that building or facility.

2. The board of county commissioners may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.

3. The ~~[provisions of NRS 338.010 to 338.090, inclusive, apply to any]~~ *person who enters into an* agreement for the *actual* construction or remodeling of a building or facility ~~[entered into]~~ pursuant to subsection 1 ~~[.]~~ *shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.*

*4. The board of county commissioners, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board of county commissioners had undertaken the project or had awarded the contract.*

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. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or

medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

(a) Must have a term that is 30 years or less;

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and

(c) May, at the option of the local government, contain a provision that allows prepayment of the purchase price upon such terms as are provided in the agreement.

4. If the term of the medium-term obligation or installment-purchase agreement is more than 5 years, the weighted average term of the medium-term obligation or installment-purchase agreement may not exceed the estimated weighted average useful life of the assets being financed with the medium-term obligation or installment-purchase agreement.

~~[5.]~~ For the purposes of *this* subsection , ~~[4,]~~ the Committee on Local Government Finance may adopt regulations that provide guidelines for the useful life of various types of assets and for calculation of the weighted average useful life of assets.

*5. If ~~[an]~~ a lease-purchase or installment-purchase agreement pursuant to ~~[this section]~~ NRS 280.266 or 350.089 involves the construction, alteration, repair or remodeling of an improvement ~~[,]~~ :*

*(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~[, apply to the construction, alteration, repair or remodeling of the improvement.]~~*

*(b) The governing body, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or*

*remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the project or had awarded the contract.*

Sec. 22. NRS 353.545 is hereby amended to read as follows:

353.545 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

(a) Engage in or allow bid-shopping; or

(b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

*5. If a lease-purchase or installment-purchase agreement ~~[pursuant to this section]~~ involves the construction, alteration, repair or remodeling of an improvement ~~[,]~~ :*

*(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~[, apply to the construction, alteration, repair or remodeling of the improvement.]~~*

*(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.*

*Sec. 22.5. NRS 353.590 is hereby amended to read as follows:*

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) Any law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. The ~~[provisions of NRS 338.013 to 338.090, inclusive, apply to]~~ *person or entity that enters into the agreement for* the *actual* construction, alteration, repair or remodeling of the improvement ~~[.]~~ *shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.*

3. *The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.*

*4.* The provisions of:

(a) Subsection 9 of NRS 341.100; and

(b) NRS 341.105,

➥ apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 354.740 is hereby amended to read as follows:

354.740 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

(a) Engage in or allow bid-shopping; or

(b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

*5. If a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement* ~~[,]~~ *:*

*(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive* . ~~[, apply to the construction, alteration, repair or remodeling of the improvement.]~~

*(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.*

*Sec. 24.5. Section 2.145 of the Charter of the City of Las Vegas, being chapter 244, Statutes of Nevada 2007, at page 836, is hereby amended to read as follows:*

Sec. 2.145 Powers of City Council: Lease or lease-purchase agreement for construction or remodeling of building or facility; conveyance of property; applicability of certain provisions to agreement for construction or remodeling of building or facility.

1. The City Council may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the City Council and thereupon enter into a lease or a lease-purchase agreement with the City Council for that building or facility.

2. The City Council may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.

3. The ~~[provisions of NRS 338.010 to 338.090, inclusive, apply to any]~~ *person who enters into an* agreement for the *actual* construction or remodeling of a building or facility ~~[entered into]~~ pursuant to subsection 1 ~~[.]~~ *shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.*

*4. The City Council, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the City Council had undertaken the project or had awarded the contract.*

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

This amendment deletes section 1 and adds a new section to specify that a person who enters into a lease or lease-purchase agreement with a board of county commissioners for the purposes of constructing or remodeling a facility shall include in the agreement the contractual provisions requiring the payment of prevailing wage and provides that the board of commissioners, the contractor and any subcontractors shall comply with Nevada's prevailing wage requirements.

It extends these same new provisions to medium-term obligations and installment-purchase agreements of local governments; lease-purchase and installment-purchase agreements of the State of Nevada and the City of Las Vegas.

It amends legislative declarations regarding lease-purchase and installment-purchase agreements by the State and by local governments to reflect these provisions

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 478.

Bill read second time.

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

Amendment No. 798.

"SUMMARY—Revises provisions relating to certain housing authorities. (BDR 25-1237)"

"AN ACT relating to governmental administration; revising provisions relating to certain housing authorities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the Housing Authorities Law of 1947. (NRS 315.140-315.780) In relevant part, under the provisions of this Law, each county, city and town of the State has a housing authority which is a municipal corporation and which is presided over by five commissioners. (NRS 315.320, 315.370) The housing authorities governed by this Law exist primarily to ensure that veterans and persons of low income are able to find safe and sanitary housing at affordable prices. (NRS 315.330, 315.340, 315.440, 315.460, 315.510)

This bill, in a county whose population is 400,000 or more (currently Clark County), allows two or more (housing) authorities to form a regional (housing) authority. Such a regional authority is created by a resolution agreed to between or among, as applicable, the governing bodies of the local governments that desire to participate in the regional authority. A regional authority has the same powers and duties as a regular authority, except on an expanded geographic scale. ~~[A regional authority also has the authority to~~

~~repeal local laws, ordinances and regulations that are in conflict with each other.]~~ Upon the formation of a regional authority, the individual authorities of the county and the cities participating in the regional authority ~~[are dissolved.]~~ *must begin the process of dissolution.*

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

Section 1. Chapter 315 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"Regional authority" means an authority formed pursuant to section 3 of this act.*

Sec. 3. *1. In a county whose population is 400,000 or more, any two or more authorities may form a regional authority.*

*2. To form a regional authority as described in subsection 1, the governing body of the county and the governing body of each city and town located within the county that desires to participate in the regional authority shall adopt a resolution setting forth:*

*(a) The intent to regionalize some or all of their powers;*

*(b) A reference to the development of a plan for transitioning to a regional authority;*

*(c) The geographic scope of the regional authority; and*

*(d) ~~[That, upon the formation of the regional authority, any individual authorities of the local governments who form the regional authority are dissolved; and~~*

*~~(e)]~~ Such other matters as the governing bodies determine to be necessary or advisable.*

*3. If the formation of a regional authority pursuant to this section involves fiscal matters, the ownership of real property or the consolidation of functions, the governing bodies who form the regional authority shall, in consultation with the United States Department of Housing and Urban Development, resolve such matters ~~[must be resolved]~~ by written contract, agreement or other arrangement entered into by ~~[the]~~ those governing bodies . ~~[who form the regional authority.]~~*

*Sec. 3.5. Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority, the dissolution of any individual authorities of the local governments who form the regional authority must be begun.*

Sec. 4. *1. Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority, nine persons must be appointed to serve as commissioners of the authority as follows:*

*(a) The governing body of the county shall appoint two persons to serve as commissioners of the authority;*

*(b) The governing body of the largest city in the county shall appoint two persons to serve as commissioners of the authority;*

*(c) The governing body of the second largest city in the county shall appoint two persons to serve as commissioners of the authority;*

*(d) The governing body of the third largest city in the county shall appoint two persons to serve as commissioners of the authority; and*

*(e) One commissioner who serves on behalf of tenants must be selected as described in subsection 3.*

~~*[➥ None of the persons appointed to serve as commissioners of the authority may be elected officials of any governmental entity.]*~~

*2. Six of the commissioners who are first appointed pursuant to subsection 1 must be designated to serve for terms of 1, 2 and 3 years, respectively, from the date of their appointment, and three must be designated to serve for terms of 4 years from the date of their appointment, but thereafter commissioners must be appointed for a term of office of 4 years. The persons appointed initially to serve as commissioners pursuant to subsection 1 shall determine by lot whether they are designated pursuant to this subsection to serve for a term of 1 year, 2 years, 3 years or 4 years.*

*3. The commissioner who serves on behalf of tenants must be a current recipient of assistance from the authority who was selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive assistance from the authority. Thereafter, at least one commissioner must be such a recipient who was nominated and appointed in the same manner. If, during his term, the commissioner ceases to be a recipient of assistance, he must be replaced in the manner set forth in this subsection by a person who is a recipient of assistance.*

*4. In making the appointments described in subsection 1, the relevant local governments shall seek recommendations for appointment from a diverse background of interests with a view toward:*

*(a) Balancing gender and ethnicity; and*

*(b) Soliciting appointees who have experience in fields such as, without limitation:*

*(1) Real estate;*
*(2) Financial planning;*
*(3) Legal aid;*
*(4) Education;*
*(5) Public safety;*
*(6) The provision of public services; and*
*(7) The assistance of persons of low income.*

*5. All vacancies must be filled for the unexpired term.*

Sec. 5. *A regional authority may, in addition to exercising the powers set forth in NRS 315.440 and 315.460 and any other relevant provisions of this chapter:*

*1.* ~~*[Repeal conflicting local laws, ordinances and regulations;*~~

~~2.~~ *Jointly, or with another authority, exercise any powers, privileges and rights that are exercised or capable of being exercised by a local housing agency of this State; and*

~~[3.]~~ *2. Exercise such other powers as the governing bodies of the local governments that formed the regional authority may agree upon.*

Sec. 6. *A regional authority may not request a reservation or nomination of land from the Bureau of Land Management unless the governing body of the jurisdiction within which the applicable land of the Bureau is located adopts a resolution of approval.*

Sec. 7. NRS 315.021 is hereby amended to read as follows:

315.021 As used in NRS 315.021 to 315.071, inclusive, unless the context otherwise requires:

1. "Housing authority" means a housing authority created pursuant to this chapter. *The term includes a regional authority formed pursuant to section 3 of this act.*

2. "Landlord" means a person who owns or manages any premises that he rents or leases to a tenant pursuant to a contract with a housing authority.

3. "Premises" means a particular apartment or other residential unit of public housing occupied by a tenant, or a residential unit that is occupied by a tenant pursuant to a federally assisted housing program administered by a housing authority.

4. "Public housing" means the residential accommodations operated by a housing authority or a landlord.

Sec. 8. NRS 315.140 is hereby amended to read as follows:

315.140 NRS 315.140 to 315.780, inclusive, *and sections 2 to 6, inclusive, of this act* may be referred to as the Housing Authorities Law of 1947.

Sec. 9. NRS 315.150 is hereby amended to read as follows:

315.150 Unless the context otherwise requires, the definitions contained in NRS 315.160 to 315.300, inclusive, *and section 2 of this act* govern the construction of NRS 315.140 to 315.780, inclusive ~~[.]~~ *, and sections 2 to 6, inclusive, of this act.*

Sec. 10. NRS 315.160 is hereby amended to read as follows:

315.160 1. In the case of an authority of a city or town, "area of operation" shall include such city or town and the area within 5 miles of the territorial boundaries thereof; but the area of operation of an authority of any city or town shall not include any area which lies within the territorial boundaries of some other city or town as herein defined, unless a resolution shall have been adopted by the governing body of such other city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for such authority to exercise its powers within that city or town.

2. In the case of an authority of a county, "area of operation" shall include all of the county for which it is created; but a county authority shall not undertake any housing project or projects within the boundaries of any

city or town, as herein defined, unless a resolution shall have been adopted by the governing body of such city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for the county authority to exercise its powers within such city or town.

*3. In the case of a regional authority, "area of operation" shall include:*

*(a) All of the territory within the geographic scope of the regional authority, as referred to in paragraph (c) of subsection 2 of section 3 of this act; and*

*(b) Any other territory regarding which the regional authority and another authority agree to exercise joint power or control.*

Sec. 11. NRS 315.170 is hereby amended to read as follows:

315.170 "Authority" means any of the public corporations created or authorized to be created by NRS 315.140 to 315.780, inclusive, *and sections 2 to 6, inclusive, of this act* and any housing authority established and operating prior to July 1, 1975, under the provisions of the Housing Authorities Law of 1943 or the Housing Law of 1951. *The term includes a regional authority.*

Sec. 12. NRS 315.380 is hereby amended to read as follows:

315.380 *1.* An authority shall select a chairman and a vice chairman from its commissioners.

*2. For the purpose of managing a regional authority, the commissioners of the regional authority shall initially select an executive director by way of a competitive, open and public process. Thereafter, the selection of an executive director must be made as determined by the commissioners of the regional authority to be in the best interests of the authority.*

Sec. 13. NRS 315.435 is hereby amended to read as follows:

315.435 Except as otherwise provided in NRS 315.9835, a housing authority shall not operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein. *For the purposes of this section, the formation of a regional authority pursuant to section 3 of this act shall be deemed to constitute consent by resolution of the authority of any participating local governmental entity.*

Sec. 14. NRS 315.440 is hereby amended to read as follows:

315.440 Within its area of operation, an authority may:

1. Prepare, carry out and operate housing projects and provide for the construction, reconstruction, improvement, extension, alteration, or repair of any such project or any part thereof.

2. Determine where there is unsafe, insanitary or overcrowded housing.

3. Make studies and recommendations relating to the problem of eliminating unsafe, insanitary or overcrowded housing.

4. Cooperate with the city, the county, the State, or any political subdivision thereof in action taken in connection with such problems.

*5. If it is a regional authority, work cooperatively with the relevant local jurisdictions concerning new developments or housing projects, or both. The relevant local jurisdictions with which a regional authority works cooperatively concerning new developments or housing projects, or both, shall provide to the regional authority such support and assistance as the regional authority may require.*

Sec. 15. As soon as practicable after July 1, 2009, and after the adoption of a resolution pursuant to section 3 of this act, the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas shall appoint the commissioners described in section 4 of this act.

*Sec. 15.5. If the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas adopt a resolution pursuant to section 3 of this act, the dissolution required to be begun pursuant to section 3.5 of this act must be completed not later than January 1, 2010.*

Sec. 16. 1. This section and sections 1 to ~~[5,]~~ *11,* inclusive, and ~~[7 to 15,]~~ *13 to 15.5,* inclusive, of this act become effective ~~[on July 1, 2009.]~~ *upon passage and approval.*

2. Section ~~[6]~~ *12* of this act becomes effective on January 1, 2010.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President pro Tempore. This amendment clarifies the process by which individual housing authorities in Clark County shall be dissolved after the formation of a regional housing authority.

It requires the consultation with the U.S. Department of Housing and Urban Development in certain matters when forming the regional housing authority.

It deletes a provision that would have prohibited elected officials from serving as a commissioner of the regional housing authority.

It clarifies that the regional housing authority may not repeal conflicting local laws, ordinances and regulations concerning housing.

It makes a technical change regarding the nomination of BLM land for affordable-housing purposes.

It clarifies the selection process for the Executive Director of the regional housing authority and adjusts the effective dates of the bill.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 483.

Bill read second time.

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

Amendment No. 710.

"SUMMARY—Revises the provisions governing the terms of certain contracts between public bodies and certain design professionals on public works. (BDR 28-932)"

"AN ACT relating to public works; revising the provisions governing the terms of certain contracts between public bodies and certain design professionals; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes mandatory, optional and prohibited provisions in a contract for the provision of services in connection with a public work entered into between a public body and a design professional who is not a member of a design-build team. (NRS 338.155) This bill clarifies the extent of the obligation of a design professional to defend, indemnify and hold harmless a public body against liabilities, damages, losses, claims, actions or proceedings that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or his employees or agents in the performance of the contract. *This bill also provides that any provision in such a contract that conflicts with certain requirements and prohibitions concerning such contracts is void.*

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

Section 1. NRS 338.155 is hereby amended to read as follows:

338.155 *1.* If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

~~[1.]~~ *(a)* Must set forth:

~~[(a)]~~ *(1)* The specific period within which the public body must pay the design professional.

~~[(b)]~~ *(2)* The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

~~[(c)]~~ *(3)* The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to ~~[paragraph (a).~~ ~~(d)]~~ *subparagraph (1).*

*(4)* That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

~~[2.]~~ *(b)* May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to *subparagraph (1) of* paragraph (a) . ~~[of subsection 1.~~

~~3.]~~ *(c)* May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

~~[4.]~~ *(d)* ~~[Except as otherwise provided in subsection 5, must]~~ *Must* not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence,

errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

~~[5.]~~ *(e)* Except as otherwise provided in this ~~[subsection,]~~ *paragraph*, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees ~~[,]~~ *and costs, to the extent* that *such liabilities, damages, losses, claims, actions or proceedings* are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees *and costs* to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

~~*[6.]*~~ *2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.*

*3.* As used in this ~~[subsection,]~~ *section*, "agents" means those persons who are directly involved in and acting on behalf of the public body *or the design professional, as applicable,* in furtherance of the contract or the public work to which the contract pertains.

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President pro Tempore. This adds attorneys' costs to the list of matters a design professional may be required, by contract, to indemnify and hold harmless a public body when providing services in connection with a public work.

It specifies that if the contract with the design professional conflicts with provisions in the contract providing for the indemnification or hold harmless, then, those conflicting provisions shall be void.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 488.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 859.

"SUMMARY—Revises provisions governing the employment of retired public employees. (BDR 23-782)"

"AN ACT relating to public employees' retirement; revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with a public employer in a

position for which there is a critical labor shortage; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. 1077) This bill extends the prospective expiration of this exception to June 30, 2015. Section 4 of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. Section 4 also requires the designating authority to submit written findings of the determination to the Public Employees' Retirement Board on a form prescribed by the Board. The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.

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. NRS 286.523 is hereby amended to read as follows:

286.523 1. *It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.*

*2.* The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

~~[2.]~~ *3.* A retired employee who is reemployed under the circumstances set forth in subsection ~~[1]~~ *2* may reenroll in the System as provided in NRS 286.525.

~~[3.]~~ *4.* Positions for which there are critical labor shortages must be determined *in an open public meeting held by the designating authority* as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The ~~[Department of Education]~~ *board of trustees of each school district* shall designate positions ~~[with the various school districts]~~ *within the school district* for which there are critical labor shortages.

(e) ~~*[Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515]*~~ *The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages*. ~~*[for the charter schools that it sponsors.]*~~

*(f)* The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

~~[(f)]~~ *(g)* The Board shall designate positions within the System for which there are critical labor shortages.

~~[4.]~~ *5.* In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall ~~[give consideration to:]~~ *make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:*

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings ~~[;]~~ *after all other efforts of recruitment have been exhausted;*

(c) The length of time the position has been vacant; ~~[and~~

~~(d) The success of recruiting persons in other states to fill the position.~~

~~5.]~~ *(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and*

*(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.*

*6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that*

*designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.*

*7.* A designating authority shall not designate a position pursuant to subsection ~~[3]~~ *4* as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider *and make new findings in an open public meeting as to* whether the position continues to meet the criteria set forth in subsection ~~[4.]~~ *5*.

Sec. 5. Section 9 of chapter 490, Statutes of Nevada 2001, as amended by section 2 of chapter 316, Statutes of Nevada 2005, at page 1077, is hereby amended to read as follows:

Sec. 9. ~~[1.]~~ This act becomes effective on July 1, 2001.

~~[2. Section 1 of this act expires by limitation on June 30, 2005.]~~

Sec. 6. The Public Employees' Retirement Board shall conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers that participate in the Public Employees' Retirement System pursuant to NRS 286.523, as amended by section 4 of this act, for the period beginning on July 1, 2009, and ending on June 30, 2014. The Public Employees' Retirement Board shall submit a report of the study to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.

Sec. 7. NRS 286.523 is hereby repealed.

Sec. 8. 1. This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

2. Section 7 of this act becomes effective on June 30, 2015.

TEXT OF REPEALED SECTION

286.523 Employment of retired employee: Exception for reemployment of certain retired employees to fill positions for which critical labor shortage exists; determination and designation of such positions; limitation on length of designation of position.

1. It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

3. A retired employee who is reemployed under the circumstances set forth in subsection 2 may reenroll in the System as provided in NRS 286.525.

4. Positions for which there are critical labor shortages must be determined in an open public meeting held by the designating authority as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The board of trustees of each school district shall designate positions within the school district for which there are critical labor shortages.

(e) The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages.

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

(g) The Board shall designate positions within the System for which there are critical labor shortages.

5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted;

(c) The length of time the position has been vacant;

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating

authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection 4 as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection 5.

Senator Mathews moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 513.

Bill read second time.

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

Amendment No. 762.

"SUMMARY—Makes various changes to provisions governing licensing of escrow agencies and mortgage brokers, agents and bankers. (BDR 54-1136)"

"AN ACT relating to mortgage lending; ~~[requiring the licensing of a construction control as an escrow agent or agency;]~~ establishing education requirements for an escrow agent or agency; revising provisions relating to the jurisdiction of the Commissioner of Mortgage Lending; revising subpoena powers of the Commissioner; revising provisions relating to holders of a beneficial interest in a loan; eliminating the exemption of consumer finance companies from provisions relating to mortgage brokers, mortgage agents and mortgage bankers; revising provisions for the issuance of a certificate of exemption to a mortgage broker, mortgage agent or mortgage banker; requiring a mortgage broker to make additional disclosures under certain circumstances; revising provisions for the revocation of the license of a mortgage broker or mortgage agent; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill requires a construction control to be licensed as an escrow agent or agency.]~~ Sections 3 and 4 of this bill establish educational prerequisites and continuing education requirements for an escrow agent or agency. Sections 5, 9 and 15 of this bill provide that the jurisdiction and authority of the Commissioner of Mortgage Lending is unaffected by the expiration or voluntary surrender of a license as an escrow agent or agency, mortgage broker, mortgage agent or mortgage banker.

Sections 6, 12 and 18 of this bill provide that the Commissioner may subpoena documents without also subpoenaing the custodian of such documents. (NRS 645A.060, 645B.070, 645E.310)

Section 8 of this bill provides that if the beneficial interest in a loan for real property belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record.

Sections 10 and 16 of this bill eliminate the exemption of consumer finance companies from licensing and other requirements governing mortgage brokers, mortgage agents and mortgage bankers. (NRS 645B.015, 645E.150) Sections 11 and 17 of this bill revise existing law by requiring proof of the right to transact mortgage loans, if applicable, in another jurisdiction as a condition to obtaining an exemption to licensing and other provisions governing mortgage brokers, agents and bankers. (NRS 645B.016, 645E.160)

Existing law requires a mortgage broker to include a servicing fee in any loan for which he engages in activity as a mortgage broker. (NRS 645B.305) Section 13 of this bill limits the requirement to only such loans in which a private investor has acquired a beneficial interest. Section 13 also requires a mortgage broker to make additional disclosures pertaining to fees earned by the mortgage broker and any impact such fees may have on the terms of the loan.

Section 14 of this bill revises existing law to provide that the Commissioner has the discretionary authority, rather than a mandatory obligation, to revoke the license of a mortgage broker or mortgage agent under certain circumstances. (NRS 645B.690)

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

Section 1. ~~[Chapter 627 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A construction control must be licensed pursuant to chapter 645A of NRS as an escrow agent or agency.*~~

~~*2. The Division of Mortgage Lending of the Department of Business and Industry may adopt regulations as are necessary to carry out the provisions of this section.]~~ *(Deleted by amendment.)*

Sec. 2. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. *1. In addition to any other requirement, an applicant for an original license as an escrow agent or agency must furnish proof satisfactory to the Commissioner of the successful completion of a course of instruction in the principles, practices, procedures, law and ethics of escrows, which course may be an extension or correspondence course offered by the Nevada System of Higher Education, by any other accredited college or university or by any other college or school approved by the Commissioner.*

*2. An applicant for a license as an escrow agent or agency pursuant to NRS 645A.020 must meet the educational prerequisites required pursuant to this section not later than the date on which his application is received by the Office of the Commissioner.*

*3. The Commissioner shall adopt regulations setting forth standards for the educational prerequisites required pursuant to this section. The regulations must address standards for instructors, the scope and content of the instruction, required hours of instruction and such other criteria as the Commissioner considers necessary.*

Sec. 4. *1. The Commissioner shall adopt regulations that prescribe standards for the continuing education of persons licensed pursuant to this chapter.*

*2. The standards adopted pursuant to subsection 1 must:*

*(a) Permit alternative subject material appropriate for specialized areas of practice and alternative sources of programs to ensure availability throughout the State and throughout the year;*

*(b) Set forth procedures pursuant to which the Commissioner may qualify providers to offer courses of continuing education, including, without limitation, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations and other organized educational programs on technical subjects;*

*(c) Set forth procedures pursuant to which the Commissioner may qualify those continuing education courses that he determines address the appropriate subject matter; and*

*(d) Set forth required hours of instruction and such other criteria as the Commissioner considers necessary.*

*3. Subject to the provisions of this section, the Commissioner has exclusive authority to determine which providers and courses may qualify for the purposes of continuing education under this chapter.*

Sec. 5. *The expiration or revocation of a license of an escrow agent or agency by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:*

*1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the escrow agent or agency as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or*

*2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the escrow agent or agency.*

Sec. 6. NRS 645A.060 is hereby amended to read as follows:

645A.060 1. In the conduct of any examination, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) *Compel the production of any document by subpoena.*

*(c)* Administer oaths.

~~[(c)]~~ *(d)* Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter, and

in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Every person subpoenaed pursuant to the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

Sec. 7. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. *1. Except as otherwise provided by law or by agreement between the parties and regardless of the date the interests were created, if the beneficial interest in a loan belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record on matters which require the action of the holders of the beneficial interests in the loan, including, without limitation:*

*(a) The designation of a mortgage broker or mortgage agent, servicing agent or any other person to act on behalf of all the holders of the beneficial interests of record;*

*(b) The foreclosure of the property for which the loan was made;*

*(c) The sale, encumbrance or lease of real property owned by the holders resulting from a foreclosure or the receipt of a deed in lieu of a foreclosure in full satisfaction of a loan;*

*(d) The release of any obligation under a loan in return for an interest in equity in the real property or, if the loan was made to a person other than a natural person, an interest in equity of that entity; and*

*(e) The modification or restructuring of any term of the loan, deed of trust or other document relating to the loan, including, without limitation, changes to the maturity date, interest rate and the acceptance of payment of less than the full amount of the loan and any accrued interest in full satisfaction of the loan.*

*2. Any action which is taken pursuant to subsection 1 must be in writing.*

*3. The provisions of this section do not apply to a transaction involving two investors with equal interests.*

Sec. 9. *The expiration or revocation of a license of a mortgage broker or mortgage agent by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:*

*1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage broker or mortgage agent as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or*

*2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage broker or mortgage agent.*

Sec. 10. NRS 645B.015 is hereby amended to read as follows:

645B.015 Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

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

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

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

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

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

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

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

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

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 11. NRS 645B.016 is hereby amended to read as follows:

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

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

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

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

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

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

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

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:

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

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

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

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

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

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

(b) Another certificate of exemption.

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

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

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

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

Sec. 12. NRS 645B.070 is hereby amended to read as follows:

645B.070 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) *Compel the production of any document by subpoena.*

*(c)* Administer oaths.

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

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor and shall be punished as provided in NRS 645B.950.

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

Sec. 13. NRS 645B.305 is hereby amended to read as follows:

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

*1. Includes a disclosure:*

*(a) Describing, in a specific dollar amount, all fees earned by the mortgage broker;*

*(b) Explaining which party is responsible for the payment of the fees described in paragraph (a); and*

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

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

Sec. 14. NRS 645B.690 is hereby amended to read as follows:

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

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

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

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner ~~[shall]~~ *may* revoke it.

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

cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

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

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

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

Sec. 15. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

*The expiration or revocation of a license of a mortgage banker by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:*

*1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage banker as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or*

*2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage banker.*

Sec. 16. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

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

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

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

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

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

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

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using

his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

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

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 17. NRS 645E.160 is hereby amended to read as follows:

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

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

(b) Pay the fee required pursuant to NRS 645E.280;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150; and

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

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

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

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

(b) Pay the fee required pursuant to NRS 645E.280; and

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

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

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

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

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

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

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

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

Sec. 18. NRS 645E.310 is hereby amended to read as follows:

645E.310 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) *Compel the production of any document by subpoena.*

*(c)* Administer oaths.

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

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

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

Sec. 19. (Deleted by amendment.)

Sec. 20. Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:

*The Commissioner shall adopt regulations establishing guidelines and limitations for the servicing or arranging of loans of which an investor has ownership or in which an investor has a beneficial interest.*

Sec. 21. 1. This section and sections 1, 2 and 4 to 20, inclusive, of this act become effective upon passage and approval.

2. Section 3 of this act becomes effective:

(a) On January 1, 2011, for the purposes of educational qualifications of escrow agents or agencies; and

(b) Upon passage and approval for all other purposes.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President pro Tempore. This amendment removes all references to licensure for construction controls. We could not figure out where they were going to belong so we decided that is not the biggest problem right now. We would address it in the future.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 426 be taken from the Second Reading File and placed on the Second Reading File on the third agenda.

Motion carried.

Senator Care moved that Assembly Bill No. 378 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 242.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 861.

"SUMMARY—Enacts provisions relating to energy efficiency, renewable energy and building construction. (BDR 58-378)"

"AN ACT relating to energy; ~~[requiring the Director of the Office of Energy within the Office of the Governor to adopt regulations setting forth standards of efficiency for certain appliances; requiring a portion of the annual assessment levied on public utilities and certain other entities by the Public Utilities Commission of Nevada to be allocated to the Office of Energy;]~~ requiring certain contractors to offer upgrades for renewable energy and energy efficiency; requiring certain contractors assisting buyers in obtaining financing to offer, or work with lenders that offer, energy efficient mortgages; requiring licensees of the Real Estate Division of the Department of Business and Industry to make certain information about energy efficiency in residential property available to each party to a real estate transaction; revising continuing education requirements relating to energy efficiency for real estate brokers, real estate broker-salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[ Section 1 of this bill enacts provisions requiring the Director of the Office of Energy within the Office of the Governor to adopt regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in accordance with federal law. Section 2 of this bill requires that a portion of the annual assessment levied on public utilities and certain other entities by the Public Utilities Commission of Nevada for the use of the Commission, in an amount determined by the Interim Finance~~

~~Committee of not more than 0.05 mills, be allocated to supplement the budget of the Office of Energy. (NRS 704.033)]~~

Section 4 of this bill: (1) requires a contractor to offer certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which will be built by the contractor as part of a development of 25 or more single-family residences; *and* (2) requires a contractor to offer information about retrofitting certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which has already been built by the contractor as part of a development of 25 or more single-family residences. ~~[; and (3) requires the Director of the Office of Energy to adopt regulations establishing minimum standards of efficiency for each type of upgrade.]~~ Section 5 of this bill requires a contractor who arranges financing for the purchase of a single-family residence which is built by the contractor as part of a development of 25 or more single-family residences to offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage. ~~[which is comparable to those offered by the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal Housing Administration, the Department of Housing and Urban Development and the Department of Veterans' Affairs.]~~ If the contractor does not arrange financing for buyers, section 5 requires the contractor to provide information to buyers concerning energy efficient mortgages.

Section 8 of this bill requires licensees of the Real Estate Division of the Department of Business and Industry to distribute free of charge to each party to a real estate transaction written information which is available publicly and which is designed to assist in the identification, evaluation and selection of energy efficiency and conservation features in residential property. Sections 11, 12 and 13 of this bill amend the continuing education requirements for real estate brokers, real estate broker-salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers to include a requirement for training in energy efficiency and conservation features in residential property. (NRS 645.575, 645B.051, 645C.440)

Sections 11.5 and 13.5 of this bill allow a new component *of not more than 1 hour of instruction concerning energy efficiency in residential property* to be added to an existing course of continuing education without the Division ~~[requiring the course to be accredited or approved as a new course or]~~ charging accreditation or approval fees for the *addition of the new component to the* course. (NRS 645.830, 645C.450)

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

Section 1. ~~[Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*The Director shall adopt regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in*~~

~~*accordance with the program established pursuant to 42 U.S.C. 6294a et seq.*~~ *(Deleted by amendment.)*

Sec. 2. ~~[NRS 704.033 is hereby amended to read as follows:~~

~~704.033 1. Except as otherwise provided in subsection~~ [6,] ~~*7*, the Commission shall levy and collect an annual assessment from all public utilities, providers of discretionary natural gas service and alternative sellers subject to the jurisdiction of the Commission.~~

~~2. Except as otherwise provided in subsections 3 and~~ [4,] ~~*5*, the annual assessment must be:~~

~~(a) For the use of the Commission, not more than 3.50 mills; and~~

~~(b) For the use of the Consumer's Advocate, not more than 0.75 mills,~~

~~on each dollar of gross operating revenue derived from the intrastate operations of~~ [such] ~~*those* utilities, providers of discretionary natural gas service and alternative sellers in the State of Nevada. The total annual assessment must be not more than 4.25 mills.~~

~~3. The levy for the use of the Consumer's Advocate must not be assessed against railroads.~~

~~*4. A portion of the levy for the use of the Commission, in an amount determined by the Interim Finance Committee of not more than 0.05 mills, must be allocated to supplement the budget of the Office of Energy within the Office of the Governor.*~~

~~*5.* The minimum assessment in any 1 year must be $100.~~

~~[5.]~~ ~~*6.* The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:~~

~~(a) Telecommunication providers, except as *otherwise* provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues.~~

~~(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.~~

~~(c) All public utilities, providers of discretionary natural gas service and alternative sellers, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility, provider of discretionary natural gas service or alternative seller for resale.~~

~~[6.]~~ ~~*7.* Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee of $200.~~] *(Deleted by amendment.)*

Sec. 3. Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. *1. A contractor shall offer a choice of upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which will be built by the contractor as part of a development of 25 or more single-family residences. The upgrades may be offered in a package, but the contractor shall allow the person to select individual upgrades and shall not require the selection of an entire package. Qualifying upgrades include, without limitation:*

*(a) Awnings and shutters;*

*(b) Cool roof coating;*

*(c) Energy efficient appliances;*

*(d) A ground source heat pump;*

*(e) Low-emissivity windows;*

*(f) A programmable thermostat;*

*(g) Ridge vents;*

*(h) A system for solar energy that:*

*(1) Consists of a photovoltaic solar collector, or other device for photovoltaic solar energy, that has a primary purpose of providing for the collection, storage and distribution of solar energy for the generation of electricity; and*

*(2) Produces an average of at least 2 kilowatts of alternating current of electricity;*

*(i) A system for solar thermal energy that has a primary purpose of providing for the collection, storage and distribution of solar energy for the production of hot water or air for space heating or water heating; and*

*(j) A charging station for an electric vehicle.*

*2. A contractor shall provide information on retrofitting qualifying upgrades for renewable energy and energy efficiency set forth in subsection 1 to a person who negotiates to purchase a single-family residence which the contractor has already built as part of a development of 25 or more single-family residences.*

~~*[ 3. The Director of the Office of Energy within the Office of the Governor shall adopt regulations establishing minimum standards of efficiency for each type of qualifying upgrade.]*~~

Sec. 5. *1. A contractor who:*

*(a) Directly or through an affiliate, subsidiary or other related entity arranges financing for the purchase of a single-family residence which is built by the contractor as part of a development of 25 or more single-family residences shall offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage.*

*(b) Does not arrange financing for the purchase of a single-family residence specified in paragraph (a) shall provide to the purchaser, free of charge, written information concerning energy efficient mortgages which must include, without limitation, the information concerning energy efficient mortgages available publicly from the United States Department of Energy, the Environmental Protection Agency, the Federal Housing Administration and the Department of Housing and Urban Development.*

*2.* ~~*[The energy efficient mortgage offered pursuant to paragraph (a) of subsection 1 must be comparable, as determined by the Director of the Office of Energy within the Office of the Governor, to the energy efficient mortgages offered by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Department of Housing and Urban Development and the Department of Veterans' Affairs.*~~

~~3.~~ *As used in this section, "energy efficient mortgage" means a mortgage which credits the energy efficiency of a home in the mortgage by providing borrowers with the opportunity to finance cost-effective and energy-saving measures as part of a single mortgage and by increasing debt-to-income qualifying ratios on loans.*

Sec. 6. Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. *"Residential property" has the meaning ascribed to it in NRS 113.100.*

Sec. 8. *A licensee shall provide, free of charge, to each party to a real estate transaction written information which is available publicly and which is designed to assist a person in the identification, evaluation and selection of energy efficiency and conservation features in residential property. The written information must include, without limitation, information relating to:*

*1. Appliances;*
*2. Building materials used in homes;*
*3. Cool roofs;*
*4. Energy efficient mortgages and financing;*
*5. "Green" home certification programs;*
*6. Heating and cooling systems, including water heating systems;*
*7. Home energy audits and ratings;*
*8. Insulation;*
*9. Landscaping;*
*10. Lighting and day lighting;*
*11. Passive solar heating;*
*12. Solar electricity;*
*13. Water-conserving devices; and*
*14. Windows.*

Sec. 9. NRS 645.0005 is hereby amended to read as follows:

645.0005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, *and section 7 of this act* have the meanings ascribed to them in those sections.

Sec. 10. NRS 645.194 is hereby amended to read as follows:

645.194 1. The Division shall prepare a booklet that provides relevant information concerning the disclosures that are required by federal, state and local laws and regulations by a buyer and a seller in a transaction involving the sale of residential property.

2. The Division shall make copies of the booklet prepared pursuant to subsection 1 available to licensees which the licensee must distribute to prospective buyers and sellers in the sale of residential property in accordance with the regulations adopted by the Commission.

3. The Commission shall approve the format and content of the information that must be included in the booklet.

~~[4. As used in this section, "residential property" has the meaning ascribed to it in NRS 113.100.]~~

Sec. 11. NRS 645.575 is hereby amended to read as follows:

645.575 1. The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter.

2. The standards adopted pursuant to subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.

3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission may, without limitation, adopt by regulation standards for continuing education that:

(a) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after initial licensing of the person.

(b) Require a person whose license as a real estate broker or real estate broker-salesman has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343 ~~[,]~~ before the person's license is reissued or reinstated.

4. *In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a person who holds a license as a real estate broker, real estate broker-salesman or real estate salesman to complete instruction in energy efficiency in residential property which* ~~*[:*~~

~~*(a) Includes,]*~~ *includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act* ~~*. [; and*~~

~~*(b) Is offered as a component of another qualified course of continuing education for which the Division does not charge an accreditation fee pursuant to NRS 645.830.]*~~

5. Except as otherwise provided in this subsection, the license of a real estate broker, broker-salesman or salesman must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education

required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal.

Sec. 11.5. NRS 645.830 is hereby amended to read as follows:

645.830 1. ~~[The]~~ *Except as otherwise provided in subsection 3, the* following fees must be charged by and paid to the Division:

| | |
|---|---|
| For each original real estate broker's, broker-salesman's or corporate broker's license | $105 |
| For each original real estate salesman's license | 85 |
| For each original branch office license | 120 |
| For real estate education, research and recovery to be paid at the time an application for an original license is filed | 40 |
| For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed | 40 |
| For each renewal of a real estate broker's, broker-salesman's or corporate broker's license | 180 |
| For each renewal of a real estate salesman's license | 140 |
| For each renewal of a real estate branch office license | 110 |
| For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license | 95 |
| For each penalty for late filing of a renewal for a salesman's license | 75 |
| For each change of name or address | 20 |
| For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment | 20 |
| For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof | 20 |
| For each change of broker status from broker to broker-salesman | 20 |
| For each change of broker status from broker-salesman to broker | 40 |
| For each reinstatement to active status of an inactive real estate broker's, broker-salesman's or salesman's license | 20 |
| For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location | 30 |
| For each reinstatement of a real estate salesman's or broker-salesman's license when he fails to notify the Division of a change of broker within 30 days of termination by previous broker | 30 |
| For each original registration of an owner-developer | 125 |
| For each annual renewal of a registration of an owner-developer | 125 |

For each enlargement of the area of an owner-developer's registration ..... 50
For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof ..... 150
For each original accreditation of a course of continuing education ..... 100
For each renewal of accreditation of a course of continuing education ..... 50
For each annual approval of a course of instruction offered in preparation for an original license or permit ..... 100

2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:

(a) Any university, state college or community college of the Nevada System of Higher Education.

(b) Any agency of the State.

(c) Any regulatory agency of the Federal Government.

3. ~~*[If]*~~ *The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of instruction concerning energy efficiency in residential property is added to the curriculum of* ~~*[an]*~~ *the existing course of continuing education . ~~[, the Division shall not require the course to be accredited as a new course and shall not charge and collect the fee for the original or renewal accreditation of the course pursuant to subsection 1.]~~*

*4.* The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.

Sec. 12. NRS 645B.051 is hereby amended to read as follows:

645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12 month period, the extra hours may be used to satisfy the requirement for

the immediately following 12-month period and for that immediately following 12-month period only.

3. *In addition to any other standards for continuing education that the Commissioner adopts by regulation pursuant to NRS 645B.0138, the Commissioner shall adopt by regulation standards for continuing education that require a licensee to complete a course of instruction which* ~~[:~~

~~*(a) Includes,]*~~ *includes, without limitation, instruction related to energy efficient mortgages and financing* . ~~[; and~~

~~*(b) Is offered as a component of another qualified course of continuing education.]*~~

*4.* As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.

Sec. 12.5. NRS 645C.340 is hereby amended to read as follows:

645C.340 1. Each application for an examination for a certificate or license must be accompanied by the fees established by the Division pursuant to subsection ~~[2]~~ *3* of NRS 645C.450.

2. The examination must test the applicant on his knowledge and understanding of:

(a) Subjects applicable to the type of certificate or license for which he is applying; and

(b) Laws regarding the practice of preparing and communicating appraisals, including the provisions of this chapter and any regulations adopted pursuant thereto.

3. The Division may hire a professional testing organization to create, administer or score the examination.

Sec. 13. NRS 645C.440 is hereby amended to read as follows:

645C.440 1. The Commission shall adopt regulations governing the continuing education of certified or licensed appraisers. The regulations must include the criteria for approving each course and the requirements for submission of proof of attendance at a course.

2. In approving courses for continuing education , the Commission shall authorize a variety of subjects and give consideration to specialized areas of practice and the availability of programs. An appropriate educational course given by an accredited university or community college must be approved by the Commission.

*3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a certified or licensed appraiser to complete instruction in energy efficiency in residential property which* ~~[:~~

~~*(a) Includes,]*~~ *includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act* . ~~[; and~~

~~*(b) Is offered as a component of another qualified course of continuing education for which the Division does not charge an approval fee pursuant to NRS 645C.450.]*~~

Sec. 13.5. NRS 645C.450 is hereby amended to read as follows:

645C.450 1. ~~[The]~~ *Except as otherwise provided in subsection 2, the* following fees may be charged and collected by the Division:

| | |
|---|---|
| Application for a certificate, license or registration card | $100 |
| Issuance or renewal of a certificate or license as a residential appraiser | 290 |
| Issuance or renewal of a certificate as a general appraiser | 390 |
| Issuance of a permit | 115 |
| Issuance or renewal of a registration card | 190 |
| Issuance of a duplicate certificate or license for an additional office | 50 |
| Change in the name or location of a business | 20 |
| Reinstatement of an inactive certificate or license | 30 |
| Annual approval of a course of instruction offered in preparation for an initial certificate or license | 100 |
| Original approval of a course of instruction offered for continuing education | 100 |
| Renewal of approval of a course of instruction offered for continuing education | 50 |

2. ~~*[If]*~~ *The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of instruction concerning energy efficiency in residential property is added to the curriculum of* ~~*[an]*~~ *the existing course of instruction for continuing education . ~~[, the Division shall not require the course to be approved as a new course and shall not charge and collect the fee for an original approval or renewal of approval of the course pursuant to subsection 1.]~~*

*3.* The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a certificate or license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

Sec. 14. ~~[The Director of the Office of Energy shall adopt the regulations required by section 1 of this act on or before December 31, 2009.]~~ *(Deleted by amendment.)*

Sec. 15. 1. This section and section 14 of this act become effective upon passage and approval.

2. Section 8 of this act becomes effective:

(a) Upon passage and approval for the purpose of taking any actions required by a licensee to provide written information concerning energy efficiency and conservation specified in that section; and

(b) On October 1, 2009, for all other purposes.

3. Sections 1, ~~[4,]~~ 11, 11.5, 12, 13 and 13.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

4. Sections 2 ~~[, 3,]~~ *to* 5, *inclusive,* 6, 7, 9, 10 and 12.5 of this act become effective on October 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President pro Tempore. The amendment deletes the requirement for appliances' standards in section 1.

It deletes section 2 that provided a portion of the mill assessment be made available to the Office of Energy.

It deletes any requirements for the Office of Energy to adopt regulations under this bill.

It clarifies provisions relating to the continuing-education requirements for certain real-estate professionals.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senator Horsford moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 2:38 p.m.

## SENATE IN SESSION

At 2:40 p.m.

President pro Tempore Schneider presiding.

Quorum present.

### MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 358 be taken from the General File and placed on the General File on the third agenda.

Motion carried.

### GENERAL FILE AND THIRD READING

Assembly Bill No. 13.

Bill read third time.

Roll call on Assembly Bill No. 13:

YEAS—21.

NAYS—None.

Assembly Bill No. 13 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 15.

Bill read third time.

Roll call on Assembly Bill No. 15:
YEAS—20.
NAYS—Rhoads.

Assembly Bill No. 15 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 84.
Bill read third time.
Roll call on Assembly Bill No. 84:
YEAS—21.
NAYS—None.

Assembly Bill No. 84 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 88.
Bill read third time.
Roll call on Assembly Bill No. 88:
YEAS—21.
NAYS—None.

Assembly Bill No. 88 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 101.
Bill read third time.
Roll call on Assembly Bill No. 101:
YEAS—21.
NAYS—None.

Assembly Bill No. 101 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 124.
Bill read third time.
Roll call on Assembly Bill No. 124:
YEAS—21.
NAYS—None.

Assembly Bill No. 124 having received a constitutional majority, Mr. President pro Tempore declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 162.
Bill read third time.
Remarks by Senators Carlton, Cegavske, Amodei and Hardy.

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

SENATOR CARLTON:

Questions have been asked about the costs. I checked through my notes, and I do not think anyone can predict costs when you discuss benefits. We had testimony that it could be 1 to 2 percent. We had someone give testimony that the percentages could be higher and could be in the teens. We have done comparisons with other states. Some include the state plans; some do not. You cannot reach out to self-insured groups. You can include Employee Retirement Income Security Account (ERISA). This bill has a cap in it; so to be able to project cost accurately, I do not think I can do that justice and would not want to put something like that on the record. With the cap in place and with the number of children that this would affect, I do not want to make a guess.

SENATOR CEGAVSKE:

Thank you for those answers. I did some research myself. The parents had been told it would cost $.83 per month. They were averaging that on other states. There are very few with a cap. The concern I have is that there is no coverage for these children. We have an estimated 5,000-6,000 in our State. There are union health plans, hotels, casinos and government workers that are excluded. They do not have to provide coverage which is disheartening, and they were not willing to cover. We do not know how many of those 5,000-6,000 children would have benefited from this had any of those plans taken place. One of the mothers who talked to me about this has two children with Autism. She pays $2,500 a month day-care service for her Autistic children. She is looking for a job that, if this passes, will cover her. She does not care what the job is. She wants the insurance.

This is a sad day for us when we cannot have everyone at the table saying they are going to help these children. This is a disgrace, and I am saddened this could not be negotiated here. We keep putting these mandates on and excluding these entities. There has to come a time where it has to be all or none. I am concerned that doctors may use Autism, as was done with ADD and ADHD, to over diagnose or misdiagnose just to use the funds. I hope that we can monitor this and will look at this again in two years to see what has happened. I think there are unintended consequences. We have to be careful, and I am sympathetic to the families. I have been a part of putting together different support systems for the families during my tenure.

SENATOR AMODEI:

I received some information from a commission, which discusses the facts about Autism. I do not dispute a single fact they presented. They discuss the impacts on the constituents: if there is a cure, do insurance companies cover it or not, what is the position of the insurance industry and how it is more cost effective to treat this early which will save the State millions of dollars. I do not dispute any of those facts. This group is supposed to play a leadership role in the policy in this State and on issues of discrimination.

If, Assembly Bill No. 162 does not cover State employees' children, why should you vote yes? The State Insurance Administrator has the authority to extend this right to children of our state employees and so do private insurance companies. The State Insurance Administrator can do this voluntarily so can private insurance companies. We have made the value judgment that we are not going to allow them to do that voluntarily. We are going to force them to do it.

When it comes to those people who are working in this room for us and around the State for us, we are not going to force them to do it? We are going to rely upon the State out of the goodness of its heart to do this voluntarily when we are going to force the private people to do it involuntarily. That is not leadership. That is not, "thank you for your decision to go into public service." That is not why this bill is here. This bill is here because we got tired of waiting for people to do it voluntarily. Nevertheless, for the people who work for us, we will wait for our plan to voluntarily do the right thing? Who tells them to do the right thing? The people in this room and the people in the room down the hall do.

We do not want discrimination against age. We do not want it against race. We do not want it in sexual orientation. However, for insurance for state employees' children, who might have Autism, it is okay to discriminate?

SENATOR CARLTON:

The Senator from the Capital District does not say anything I will disagree with. I was disheartened and stated in committee that I was not happy that we did not reach out and get more children. There are groups that we cannot touch. Those are the self-insured groups and the ERISA groups. We cannot touch them. We discussed in the committee that, over the years, mandates have been instituted and have been picked up by other insurance companies in this State. I have the list of mandates listed in Nevada. We do not have as many as other states. I checked with a number of insurance companies in this State to whom we cannot touch. There is one thing on this list that they do not cover. We inspire them when we make these decisions. Sometimes, it takes them a few years to get there, but we do drag them along because pressure is applied to them. This is just a first, small step, in getting these children this care. By doing this for these children, there is an opportunity to change their lives, their parents' lives and to make a difference in the State as far as the cost of giving them care as they get older. This is not a perfect bill, but it is a good bill. It is a good, small step in doing the right thing for these children.

SENATOR HARDY:

These are always the toughest issues for us. In the years I have been here, the toughest issues have been these mandated benefits for these illnesses and diseases that ravage people who have not deserved their illnesses and diseases. It is a tough emotional thing. I have stated from the first day I started in the Assembly in 1991, that I can support mandated offerings. If someone wants to have that as part of their insurance policy, they should be able to add it. I have no difficulty with that. It is something that allows the individual to choose.

For the first time in my career as a Legislator, I voted in committee to send a mandated insurance benefit to the floor for the full body to consider. This is the first time I have voted to do that. I voted to do that because the Autism issue is particularly heart wrenching for me. This is an area where, potentially, a mandated benefit would make a difference. If we did not have the entire list of mandates that we currently have, it might be something that we can consider. I have a nephew with Autism. I know the difference good treatment and care makes.

I am troubled with the issues pointed out by my colleague from the Capital District. I could have made an exception on this bill to my long-standing policy of not voting for mandated insurance benefits until I learned this is not something that is going to be required in local governments and government policies. That is troubling, though not a secret. It has been a conscious policy decision that has been stated on the record in other bodies in this Legislature that we cannot provide that because local governments cannot afford it. Government agencies cannot afford to have that included. It has been discussed and has not been a secret. In these troubling economic times, we can cast that issue aside when it comes to small businesses. As difficult and as troubling as this is for me, I was willing to vote for a mandate insurance benefit for the first time in my career. Since we made a policy decision, after much discussion, that the private sector could afford it, but the public-sector insurance policies cannot, I cannot, in good conscience, support this.

Senator Carlton moved that Assembly Bill No. 162 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 186.

Bill read third time.

Roll call on Assembly Bill No. 186:

YEAS—21.

NAYS—None.

Assembly Bill No. 186 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 202.

Bill read third time.

Senator Carlton moved that Assembly Bill No. 202 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 205.

Bill read third time.

Roll call on Assembly Bill No. 205:

YEAS—20.

NAYS—Care.

Assembly Bill No. 205 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 262.

Bill read third time.

The following amendment was proposed by Senator Care:

Amendment No. 818.

"SUMMARY—Makes various changes concerning ~~[the issuance of]~~ marriage. ~~[licenses.]~~ (BDR 11-961)"

"AN ACT relating to marriage; ~~[authorizing certain persons to issue marriage licenses in certain counties;]~~ allowing certain married persons to remarry each other; revising provisions governing the documentation a person is required to present to obtain a marriage license; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[ Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) Sections 1-1.7 of this bill provide that in counties whose population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel. Sections 1.4, 3, 5.2, 5.4, 5.43 and 5.6 of this bill provide that a marriage license issued by a marriage licensing agent is valid only in the county in which the commercial wedding chapel employing the marriage licensing agent is located.]~~

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) Section 1.9 of this bill provides that if a male and female are the husband and wife of each other and the record of their marriage has been lost or destroyed or is otherwise

unobtainable, they may be rejoined in marriage. Section 5.47 of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.

Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate. (NRS 122.040)

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

Section 1. ~~[Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.]~~ *(Deleted by amendment.)*

Sec. 1.1. ~~*[As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.]*~~ *(Deleted by amendment.)*

Sec. 1.2. ~~*[*"Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.]*~~ *(Deleted by amendment.)*

Sec. 1.3. ~~*[*"Marriage licensing agent" means a person certified pursuant to section 1.4 of this act to issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel.]*~~ *(Deleted by amendment.)*

Sec. 1.4. ~~*[1. In a county whose population is less than 400,000, the county clerk may establish a program for the certification of persons as marriage licensing agents. If the county clerk establishes such a program, the county clerk may certify a person as a marriage licensing agent.*~~

~~*2. A marriage licensing agent may issue marriage licenses only during the course, and within the scope, of his employment at a commercial wedding chapel and in accordance with the provisions of this chapter and regulations adopted by the county clerk.*~~

~~*3. A marriage licensing agent who issues a marriage license must state on the marriage license the name of the commercial wedding chapel that employs him and the county in which that commercial wedding chapel is located.*~~

~~*4. The persons to whom a marriage licensing agent has issued a marriage license may not be joined in marriage in any county other than the county stated on the marriage license pursuant to subsection 3.*~~

~~*5. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.*~~

~~*6. If the county clerk establishes a program for the certification of persons as marriage licensing agents pursuant to subsection 1, the county clerk:*~~

~~*(a) Shall establish a course of training for applicants for certification as marriage licensing agents.*~~

~~*(b) Shall adopt regulations establishing standards of practice for marriage licensing agents.*~~

~~*(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.*~~

~~*7. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.*~~

~~*8. In addition to any other remedy or penalty, the county clerk may:*~~

~~*(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or*~~

~~*(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.]*~~ *(Deleted by amendment.)*

Sec. 1.5. ~~[*1. An applicant for certification as a marriage licensing agent must:*~~

~~*(a) Be at least 21 years of age.*~~

~~*(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.*~~

~~*(c) Not have been convicted of a felony.*~~

~~*(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.*~~

~~*(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.*~~

~~*(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.4 of this act and complete the training*~~

~~*course. The county clerk shall establish the fee for the training program, which must not exceed $100.*~~

~~*(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.*~~

~~*2. A marriage licensing agent shall:*~~

~~*(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;*~~

~~*(b) Collect from an applicant for a marriage license all fees required by law to be collected;*~~

~~*(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and*~~

~~*(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.]*~~ *(Deleted by amendment.)*

Sec. 1.6. ~~*[1. An applicant for certification as a marriage licensing agent shall submit to the county clerk 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 county clerk shall include the statement required pursuant to subsection 1 in:*~~

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

~~*(b) A separate form prescribed by the county clerk.*~~

~~*3. A certificate may not be issued by the county clerk if the applicant:*~~

~~*(a) Fails to complete or 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 county clerk shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.]*~~ *(Deleted by amendment.)*

Sec. 1.7. ~~*[1. If the county clerk 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 has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended at the end of the*~~

~~*20th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*~~

~~*2. The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.]*~~ *(Deleted by amendment.)*

Sec. 1.8. ~~[NRS 122.002 is hereby amended to read as follows:~~

~~122.002 [As used in this chapter, "commissioner]~~ ~~*"Commissioner township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.]*~~ *(Deleted by amendment.)*

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~[A]~~ *Except as otherwise provided in this section, a* male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. *A male and a female person who are the husband and wife of each other may be rejoined in marriage if the record of their marriage has been lost or destroyed or is otherwise unobtainable.*

*3.* A person at least 16 years of age but less than 18 years of age may marry only if he has the consent of:

(a) Either parent; or

(b) His legal guardian.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State*.* ~~*[or from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.]*~~ Except as otherwise provided in this subsection *,* ~~*[and section 1.4 of this act,]*~~ the license must be issued at the county seat of that ~~*[a]*~~ county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~[Before]~~ *Except as otherwise provided in this section, before* issuing a marriage license, the county clerk ~~*[or marriage licensing agent]*~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~*[or marriage licensing agent]*~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~[a]~~ *:*

*(1) Any* secondary ~~[form of identification]~~ *document* that contains the name *and a photograph* of the applicant ~~[.]~~ *; or*

*(2) Any document for which identification must be verified as a condition to receipt of the document.*

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~[the county clerk determines]~~ provides ~~[proof of]~~ the applicant's name and age. *If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.*

3. Except as otherwise provided in subsection 4, the county clerk ~~*[or marriage licensing agent]*~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ~~*[or marriage licensing agent]*~~ shall *, except as otherwise provided in this subsection,* require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~*[or marriage licensing agent]*~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the

answer is unknown. *The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.*

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, ~~[or marriage licensing agent,]~~ the county clerk ~~[or marriage licensing agent]~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, ~~[or marriage licensing agent,]~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. ~~[or marriage licensing agent.]~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~[or marriage licensing agent]~~ in writing. If the county clerk ~~[, the marriage licensing agent]~~ or the district court waives the requirements of subsection 3, the county clerk ~~[or marriage licensing agent]~~ shall require the applicant who is able to appear before the county clerk ~~[or marriage licensing agent]~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~[or marriage licensing agent]~~ shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. *The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.*

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~[or marriage licensing agent]~~ shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~[or marriage licensing agent]~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. *If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk ~~[or marriage licensing agent]~~ shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.*

*7.* If the authorization of a district court is required, the county clerk ~~*[or marriage licensing agent]*~~ shall issue the license if that authorization is given to him in writing.

~~[7.]~~ *8.* All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~[8.]~~ *9.* A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. ~~[NRS 122.040 is hereby amended to read as follows:~~

~~122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State . [or from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.] Except as otherwise provided in this subsection , [and section 1.4 of this act,] the license must be issued at the county seat of a county. The board of county commissioners:~~

~~(a) In a county whose population is 400,000 or more:~~

~~(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and~~

~~(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.~~

~~(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.~~

~~2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk [or marriage licensing agent] shall require each applicant to provide proof of the applicant's name and age. The county clerk [or marriage licensing agent] may accept as proof of the applicant's name and age an original or certified copy of any of the following:~~

~~(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.~~

~~(b) A passport.~~

~~(c) A birth certificate and:~~

~~(1) Any secondary document that contains the name and a photograph of the applicant; or~~

~~(2) Any document for which identification must be verified as a condition to receipt of the document.~~

~~➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.~~

~~(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.~~

~~(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.~~

~~(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.~~

~~3. Except as otherwise provided in subsection 4, the county clerk~~ [or marriage licensing agent] ~~issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk~~ [or marriage licensing agent] ~~shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk~~ [or marriage licensing agent] ~~shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk~~ [or marriage licensing agent] ~~shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.~~

~~4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk ,~~ [or marriage licensing agent,] ~~the county clerk~~ [or marriage licensing agent] ~~may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk~~ [or marriage licensing agent,] ~~or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk .~~ [or marriage licensing agent.] ~~If the district court waives the requirements of subsection 3, the district court shall notify the county clerk~~ [or marriage licensing agent] ~~in~~

~~writing. If the county clerk [, the marriage licensing agent] or the district court waives the requirements of subsection 3, the county clerk [or marriage licensing agent] shall require the applicant who is able to appear before the county clerk [or marriage licensing agent] to:~~

~~(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.~~

~~(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk [or marriage licensing agent] shall not require any evidence to verify a social security number.~~

~~4. If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk [or marriage licensing agent] shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.~~

~~5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk [or marriage licensing agent] shall issue the license if the consent of the parent or guardian is:~~

~~(a) Personally given before the clerk;~~

~~(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk [or marriage licensing agent] and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or~~

~~(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.~~

~~6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk [or marriage licensing agent] shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.~~

~~7. If the authorization of a district court is required, the county clerk [or marriage licensing agent] shall issue the license if that authorization is given to him in writing.~~

~~8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.~~

~~9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.]~~ *(Deleted by amendment.)*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. ~~[NRS 122.045 is hereby amended to read as follows:~~

~~122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than $25 for the preparation of an affidavit of correction.~~

~~2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk[ .]~~ *or marriage licensing agent.*

~~3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund.]~~ *(Deleted by amendment.)*

Sec. 5.2. ~~[NRS 122.050 is hereby amended to read as follows:~~

~~122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:~~

~~MARRIAGE LICENSE~~

~~(EXPIRES 1 YEAR AFTER ISSUANCE)~~

~~State of Nevada )~~
~~)ss.~~
~~County of ..... )~~

~~These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection[ 3]~~ ~~4 of NRS 122.080, or a municipal judge if authorized pursuant to subsection[ 4].~~ ~~5 of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage *in . . . . (If the license is issued by a county clerk, any county of this State; if the license is issued by a marriage licensing agent, the name of the county in which the commercial wedding chapel that employs the marriage licensing agent is located), (Name of applicant)* .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And *(Name of applicant)* .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced ....~~

~~Annulled .... When .... Where ....; and to certify the marriage according to law.~~

~~Witness my hand and the seal of the county *or signature of the marriage licensing agent*, this ... day of the month of ..... of the year .....~~

~~.....~~

~~(Seal) Clerk *or (Signature) Marriage Licensing Agent*~~

~~.....~~

~~Deputy clerk~~

~~.....~~

~~*Name of Commercial Wedding Chapel, if applicable]*~~ *(Deleted by amendment.)*

Sec. 5.3. ~~[NRS 122.055 is hereby amended to read as follows:~~

~~122.055 1. The county clerk *or marriage licensing agent* may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.~~

~~2. The county clerk *or marriage licensing agent* shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.]~~ *(Deleted by amendment.)*

Sec. 5.35. NRS 122.061 is hereby amended to read as follows:

122.061 1. In any county whose population is 100,000 or more, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 ~~[p.m.]~~ *a.m.* every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

Sec. 5.4. ~~[NRS 122.062 is hereby amended to read as follows:~~

~~122.062 1.~~ [Any] ~~*Except as otherwise provided in this subsection, any* licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this~~ [state,] ~~*State*, may join together as husband and wife persons who present a marriage license obtained from any county clerk *in this State or marriage licensing agent,*~~ [of the State,] ~~if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. *If the persons who present the marriage license have obtained the marriage license from a marriage licensing agent, the minister may join together as husband and wife those persons only in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.* The fact that a minister is retired does not disqualify him from obtaining a~~

~~certificate of permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.~~

~~2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.~~

~~3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.~~

~~4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.]~~ *(Deleted by amendment.)*

Sec. 5.43. ~~[NRS 122.080 is hereby amended to read as follows:~~

~~122.080 1.~~ [After] ~~*Except as otherwise provided in subsection 2, after* receipt of the marriage license previously issued to persons wishing to be married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, any judge of the district court, any justice of the peace in his township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection~~ [3,] ~~*4*, any municipal judge if authorized pursuant to subsection~~ [4,] ~~*5*, any commissioner of civil marriages within his county and within a commissioner township therein, or any deputy commissioner of civil marriages within the county of his appointment and within a commissioner township therein, to join together as husband and wife all persons not prohibited by this chapter.~~

~~2. *If a marriage license is issued by a marriage licensing agent to persons wishing to be married, it is lawful for a Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife the persons to whom the marriage license was issued only if those persons are joined together as husband and wife in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.*~~

~~*3.* This section does not prohibit:~~

~~(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.~~

~~(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he is authorized to perform the marriage pursuant to subsection [3.] 4.~~

~~[3.] 4. In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~[4.] 5. In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~[5.] 6. Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor.]~~ *(Deleted by amendment.)*

Sec. 5.47. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. *If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable.* The certificate of marriage must be in substantially the following form:

MARRIAGE LICENSE

(EXPIRES 1 YEAR AFTER ISSUANCE)

State of Nevada }<br>
}ss.<br>
County of ..... }

This is to certify that the undersigned, ..... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be),

did on the ..... day of the month of ……. of the year ....., at ..... (address or church), ..... (city), Nevada, join *or rejoin, as the case may be,* in lawful wedlock ..... (name), of ..... (city), State of ....., date of birth ....., and ..... (name), of .....(city), State of ....., date of birth ....., with their mutual consent, in the presence of ..... and ..... (witnesses). *(If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the male and female person who are being rejoined in marriage.)*

.....
Signature of person performing
(Seal of County Clerk) the marriage

.....
Name under signature typewritten
or printed in black ink

.....
County Clerk

.....
Official title of person performing
the marriage

.....

.....
Couple's mailing address

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The signature of the person performing the marriage must be an original signature.

Sec. 5.5. ~~[NRS 122.210 is hereby amended to read as follows:~~

~~122.210 If any county clerk or *marriage licensing agent* shall issue or sign any marriage license in any manner other than is authorized by this chapter, he shall forfeit and pay a sum not exceeding $1,000 to and for the use of the person aggrieved.]~~ *(Deleted by amendment.)*

Sec. 5.6. ~~[NRS 122.220 is hereby amended to read as follows:~~

~~122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from~~ [the] ~~*any* county clerk *in this State* or~~

~~*from a marriage licensing agent who was employed, at the time of issuing the license, by a commercial wedding chapel located in the county in which the persons proposing the marriage will be joined together as husband and wife,* as provided by law.~~

~~2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.]~~ *(Deleted by amendment.)*

Sec. 6. ~~[1.]~~ This ~~[section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this act become]~~ *act becomes* effective on July 1, 2009.

~~[2. Section 3.5 of this act becomes effective on July 1, 2011.~~

~~3. Sections 1 to 1.8, inclusive, 3, 5.1, 5.2, 5.3, 5.4, 5.43, 5.5 and 5.6 of this act expire by limitation on June 30, 2011.]~~

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Washington and McGinness.

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

SENATOR CARE:

Amendment 818 deletes all references to the marriage-licensing agent.

SENATOR WASHINGTON:

I stand in opposition to the amendment. It deletes a major portion of Assembly Bill No. 262. The bill was brought by the Committee on Judiciary on behalf of the wedding-chapel industry. It is an attempt by the wedding-chapel industry to succeed in a downturn economy. They are fighting for their survival. This bill deals with counties with a population of fewer than 400,000. There are certain wedding chapels that are allowed to provide marriage licenses for those who wish to marry.

This bill allows the wedding chapels to act as an agent on behalf of the county to issue marriage licenses if they meet certain qualifications. The requirements are that the employees are employed by the chapel and that they go through extensive background checks. They must provide additional information that is necessary and make certain that Social Security and other identification is kept confidential and that the applicants that are going to be married are over the age of 25. It specifies the hours during which the chapel may issue marriage licenses. This is permissible. It is a pilot program that will last for two years. Then, we can look at it and see if it is working. This is not overreaching. It is an opportunity for this industry to survive.

Let us give the wedding-chapel industry an opportunity to operate to see if they can continue to flourish in a downturn economy. I ask my colleagues not to support the amendment but to support the bill in its entirety.

SENATOR MCGINNESS:

My colleague from Washoe District 2 is correct. During the hearing, we got emails from both large county clerks and from Humboldt County stating they had been doing this for 15 years, and it seemed to be working fine. I support my colleague from Washoe District 2.

SENATOR CARE:

The bill, without the deletions, would go to all counties except Clark County. The difficulty is that section 1.4 would be deleted under the motion. The bill, as it was introduced, made this mandatory. When the bill came to us, the language stated it was something the clerks could do if they chose. The concern I have is that if the amendment stays in the bill and the bill passes, that even though it is permissive, there would be pressure for the county clerks to engage in this. The clerks, if they chose to get into this routine, would establish a course of training for applicants for certification of marriage-license agents. They would have to adopt regulations. They could

conduct investigations. They would appoint hearing panels to hear matters related to all of this. There was question about whether there was a mechanism for appeal if the marriage-licensing agent took exception to what the clerk might have determined. I thought it best to remove the provisions from the bill that go to the marriage-licensing agent.

Motion lost on a division of the house.

Senator Care moved that Assembly Bill No.262 be taken from the General File and placed on the General File for the next legislative day.

Motion lost on a division of the house.

Senator Horsford moved that Assembly Bill No. 262 be taken from the General File and placed on the Secretary's desk.

Motion lost on a division of the house.

Senator Horsford moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 3:08 p.m.

## SENATE IN SESSION

At 4:28 p.m.

President Krolicki presiding.

Quorum present.

### MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 262 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

### GENERAL FILE AND THIRD READING

Assembly Bill No. 296.

Bill read third time.

Roll call on Assembly Bill No. 296:

YEAS—21.

NAYS—None.

Assembly Bill No. 296 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 335.

Bill read third time.

Roll call on Assembly Bill No. 335:

YEAS—21.

NAYS—None.

Assembly Bill No. 335 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 361.
Bill read third time.
Roll call on Assembly Bill No. 361:
YEAS—21.
NAYS—None.

Assembly Bill No. 361 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 370.
Bill read third time.
Roll call on Assembly Bill No. 370:
YEAS—21.
NAYS—None.

Assembly Bill No. 370 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 387 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 492.
Bill read third time.
Roll call on Assembly Bill No. 492:
YEAS—21.
NAYS—None.

Assembly Bill No. 492 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

By Senators Horsford, Care, Schneider, Wiener, Lee, Breeden, Carlton, Coffin, Copening, Mathews, Parks and Woodhouse:

Senate Bill No. 432—AN ACT relating to governmental financial administration; providing for the creation of the Nevada Stabilization and Advancement Commission to address the economic, fiscal and long-term needs of the State of Nevada; creating additional entities to assist the Commission in its activities; making appropriations; and providing other matters properly relating thereto.

Senator Care moved that the bill be referred to the Committee on Finance.
Motion carried.

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Horsford
For: Senate Bill No. 432.
To Waive:
Subsection 2 of Joint Standing Rule No. 14.3.
Subsection 3 of Joint Standing Rule No. 14.3.
Subsection 4 of Joint Standing Rule No. 14.3.
Subsection 1 of Joint Standing Rule No. 14.
Subsection 1 of Joint Standing Rule No. 14.2.
Subsection 1 of Joint Standing Rule No. 14.3.
Has been granted effective: Wednesday, May 20, 2009.

STEVEN A. HORSFORD
*Senate Majority Leader*

BARBARA A. BUCKLEY
*Speaker of the Assembly*

REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Finance, to which were referred Assembly Bills Nos. 165, 446, 530, 531, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was rereferred Assembly Bill No. 146, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Mathews moved that all necessary rules be suspended, reading so far had considered second reading, rules further suspended, and that Assembly Bills Nos. 165, 446, 530, 531 reported out of committee be declared emergency measures and placed on third reading and final passage on the next agenda.

Motion carried.

Senator Mathews moved that all necessary rules be suspended, and that Assembly Bill No. 146 be immediately placed on the Second Reading File on the next agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 872.

"SUMMARY—Temporarily suspends longevity pay and merit pay increases for state employees. (BDR S-1193)"

"AN ACT relating to state personnel; temporarily suspending the *semiannual* payment of longevity pay and merit pay increases for state employees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a plan to encourage continuity of service in State Government, under which *semiannual* payments are made to state employees

rated standard or better with 8 years or more of continuous service, commonly known as "longevity pay." (NRS 284.177) Existing law also provides for state employees who are rated standard or better and have not attained the top step of their grade to receive a merit pay increase annually. (NRS 284.175, 284.335; NAC 284.194) This bill suspends those *semiannual* payments and *merit pay* increases for the next 2 fiscal years.

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

Section 1. 1. ~~[No]~~ *The four semiannual* payments to which a state employee would otherwise be entitled pursuant to NRS 284.177 ~~[may]~~ *must not* be made during the period beginning on July 1, 2009, and ending on June 30, 2011. For the purposes of payments made pursuant to NRS 284.177 on or after July 1, 2011, any service during that 2-year period must be considered in determining the length of continuous service of an employee, but an employee is not entitled to *semiannual* payments that would otherwise have been made during ~~[that]~~ *the* period ~~[.]~~ *during which the semiannual payments are suspended.*

2. No merit pay increases to which a state employee would otherwise be entitled pursuant to chapter 284 of NRS and the regulations adopted pursuant thereto may be granted during the period beginning on July 1, 2009, and ending on June 30, 2011. For the purposes of merit pay increases granted on or after July 1, 2011, an employee is not entitled to any increases that would otherwise have been granted during that period.

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

Senator Mathews moved the adoption of the amendment.

Senator Carlton disclosed that her husband is a state employee.

Remarks by Senator Mathews.

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

Thank you, Mr. President. This is consistent with our action in temporarily suspending merit and longevity pay increases for state employees.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Mathews moved that all necessary rules be suspended, and that Senate Bill No. 421 be declared an emergency measure under the Constitution and placed on the General File for third reading and final passage upon return from reprint for this legislative day.

Motion carried.

Senate Bill No. 422.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 874.

"SUMMARY—Makes a supplemental appropriation to the Department of Motor Vehicles for unanticipated shortfalls in revenue for Fiscal Year 2008-2009. (BDR S-1263)"

"AN ACT making a supplemental appropriation to the Department of Motor Vehicles for unanticipated shortfalls in revenue for Fiscal Year 2008-2009; and providing other matters properly relating thereto."

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

Section 1. 1. There is hereby appropriated from the State Highway Fund to the Division of Field Services of the Department of Motor Vehicles the sum of ~~[$1,340,905]~~ *$980,000* for unanticipated revenue shortfalls in governmental sales tax commissions and penalties. This appropriation is supplemental to that made by section 32 of chapter 350, Statutes of Nevada 2007, at page 1700.

2. There is hereby appropriated from the State Highway Fund to the Administrative Services Division of the Department of Motor Vehicles the sum of ~~[$1,410,427]~~ *$795,000* for unanticipated revenue shortfalls in title processing fees. This appropriation is supplemental to that made by section 32 of chapter 350, Statutes of Nevada 2007, at page 1700.

Sec. 2. This act becomes effective upon passage and approval.

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

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

Thank you, Mr. President. This amendment deals with making a supplementary appropriation to the Department of Motor Vehicles for any unanticipated shortfall in revenues for Fiscal Year 2008-2009.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 249.

Bill read second time.

Senator Wiener moved to withdraw Amendment No. 700.

Thank you, Mr. President. I would like to explain why we are withdrawing this amendment. The bill deals with governing the abatement of certain nuisances in the protection of health and safety. Because of substantial concerns about an amendment to the bill that deals with pool safety and an inability to get the parties together to agree on the amendment, we are withdrawing the amendment.

Motion carried.

The following amendment was proposed by Senator Wiener:

Amendment No. 853.

"SUMMARY—Revises provisions governing the abatement of certain nuisances and the protection of public health and safety. (BDR 40-1043)"

"AN ACT relating to public health; authorizing a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or their breeding places to take certain actions to abate the nuisance; authorizing a district health officer to order an owner of real property to abate and prevent the recurrence of such a nuisance; providing that all money expended by the health district in abating and preventing the recurrence of such a nuisance constitutes a lien upon the property;

authorizing the health district to bring an action to foreclose the lien; providing a district board of health with certain authority relating to the protection of the public health and safety with respect to *residential property,* rental dwelling units ~~[,]~~ *and commercial property;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.5 of this bill provides that the provisions of sections 1.5-4.5 of this bill apply to any health district created pursuant to NRS 439.362 or 439.370 (currently the Southern Nevada Health District in Clark County and the Washoe County Health District). Existing law authorizes health officers in this State to order the abatement or removal of any nuisance detrimental to the public health. (NRS 439.490) Section 2 of this bill provides that a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take certain actions to abate the nuisance. Section 3 of this bill authorizes the district health officer to order the owner of any real property to abate and prevent the recurrence of such a nuisance. The health officer is required to provide notice of the order to the owner by mail addressed to the last known address of the owner. Section 3 provides that if the owner does not abate the nuisance within the period specified in the order, the health district is required to abate the nuisance and take any action necessary to prevent its recurrence. Section 4 of this bill provides that all money expended by the health district in abating the nuisance and preventing its recurrence constitutes a lien upon the real property which may be recovered in an action against the property.

Existing law provides that a district board of health may, by affirmative vote of a majority of its members, adopt certain regulations which take effect immediately upon approval of the regulations by the State Board of Health. (NRS 439.366) Section 4.5 of this bill specifically authorizes a district board of health to adopt regulations relating to any health hazard on residential property *,* ~~[or]~~ any health hazard in a rental dwelling unit ~~[.]~~ *or any health hazard on commercial property.* Section 4.5 also authorizes a district board of health to adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of *residential property,* rental dwelling units ~~[,]~~ *and commercial property.* In addition, section 4.5 authorizes a district board of health, in carrying out its duties relating to the protection of the public health and safety associated with the condition of *residential property,* rental dwelling units ~~[,]~~ *and commercial property,* to take any enforcement action it determines necessary and to establish an administrative hearing process.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 4.5, inclusive, of this act.

Sec. 1.5. *The provisions of sections 1.5 to 4.5, inclusive, of this act apply to any health district created pursuant to NRS 439.362 or 439.370.*

Sec. 2. *A district health officer or his designee who issues an order for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take any action necessary to abate the nuisance or prevent its recurrence, including, without limitation:*

*1. Abate any stagnant pool of water or other breeding place for mosquitoes, flies, other insects or rats;*

*2. Treat with oil, other larvicidal material, other chemicals or other material any breeding place of mosquitoes, flies, other insects or rats;*

*3. Build, construct, repair and maintain necessary dikes, levees, cuts, canals or ditches upon any land, and acquire by purchase, condemnation or other lawful means, in the name of the health district, any land, right-of-way, easement, property or material necessary for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof;*

*4. Enter into contracts to indemnify or compensate any owner of real or other property for any injury or damage caused by the use or taking of property for dikes, levees, cuts, canals or ditches;*

*5. Enter upon without hindrance any land, within or without the health district, to determine whether breeding places of mosquitoes, flies, other insects or rats exist upon that land; and*

*6. Determine whether any person subject to an order issued pursuant to section 3 of this act has complied with the order.*

Sec. 3. *1. A district health officer may issue an order requiring an owner of real property to abate and prevent the recurrence of any mosquitoes, flies, other insects, rats or any breeding place thereof by providing notice of the order to the owner by mail addressed to the last known address of the owner. The order must:*

*(a) Provide that the owner shall abate the nuisance and prevent its recurrence; and*

*(b) Specify the period within which the abatement must be completed.*

*2. If the owner of the real property does not comply with the order within the time specified, the health district shall abate the nuisance and take all necessary steps to prevent its recurrence.*

Sec. 4. *1. All money expended by a health district in abating a nuisance and preventing its recurrence on real property pursuant to section 3 of this act constitutes a lien upon the property and may be recovered by an action against the property.*

*2. Notice of the lien must be filed and recorded by the health district in the office of the county recorder of the county in which the property is situated not later than 6 months after the date on which the health district completes the abatement.*

*3. Any action to foreclose the lien must be commenced not later than 6 months after the filing and recording of the notice of the lien.*

*4. An action commenced pursuant to subsection 3 must be brought by the health district in the name of the health district.*

*5. When the property is sold, enough of the proceeds to satisfy the lien and the costs of foreclosure must be paid to the health district and the surplus, if any, must be paid to the owner of the property if known, and if not known, must be paid into the court in which the lien was foreclosed for the use of the owner if ascertained.*

Sec. 4.5. *1. In addition to any other powers, duties and authority conferred on a district board of health, the district board of health may by affirmative vote of a majority of all the members of the board adopt regulations consistent with law, which must take effect immediately on their approval by the State Board of Health, to:*

*(a) Regulate any health hazard on residential property; ~~[and]~~*

*(b) Regulate any health hazard in a rental dwelling unit ~~[.]~~ ; and*

*(c) Regulate any health hazard on commercial property.*

*2. The district board of health may adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of rental dwelling units and to recover all costs incurred by the district board of health relating thereto. Any regulation adopted pursuant to this subsection must be provided by the landlord of a rental dwelling unit to a tenant upon request to ensure that the landlord and the tenant understand their respective rights and responsibilities clearly.*

*3. In carrying out its duties relating to the protection of the public health and safety associated with the condition of rental dwelling units, the district board of health may:*

*(a) Take any enforcement action it determines necessary; and*

*(b) Establish an administrative hearing process, including, without limitation, the hiring of qualified hearing officers.*

*4. If a tenant of a rental dwelling unit provides written notice to the landlord pursuant to NRS 118A.355 specifying a failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failure and the landlord fails to remedy ~~[a material]~~ the failure or to make a reasonable effort to do so within the time prescribed in NRS 118A.355, the tenant may, in addition to any remedy provided in NRS 118A.355, provide to the district board of health a copy of the written notice that the tenant provided to the landlord. If, upon inspection of the dwelling unit, the district board of health determines that either the landlord or the tenant has failed to maintain the dwelling unit in a habitable condition, the district board of health may refer the matter to the administrative hearing process if established pursuant to subsection 3 or take any action with respect to the dwelling unit which is authorized by this section or the regulations adopted pursuant thereto.*

*5. Before the adoption, amendment or repeal of a regulation, the district board of health must give at least 30 days' notice of its intended action. The notice must:*

*(a) Include a statement of either the terms or substance of the proposal or a description of the subjects and issues involved and of the time when, the place where and the manner in which interested persons may present their views thereon;*

*(b) State each address at which the text of the proposal may be inspected and copied; and*

*(c) Be mailed to all persons who have requested in writing that they be placed on a mailing list, which must be kept by the board for such purpose.*

*6. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing, on the intended action to adopt, amend or repeal the regulation. With respect to substantive regulations, the district board of health shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposal and requests an oral hearing, the district board of health may proceed immediately to act upon any written submissions. The district board of health shall consider fully all written and oral submissions respecting the proposal.*

*7. The district board of health shall file a copy of all of its adopted regulations with the county clerk.*

*8. As used in this section:*

*(a) "Commercial property" means any real property which is not used as a dwelling unit and is not occupied as, or designed or intended for occupancy as, a residence or sleeping place.*

*(b) "Dwelling unit" has the meaning ascribed to it in NRS 118A.080.*

*~~[(b)]~~ (c) "Health hazard" means any biological, physical or chemical exposure , ~~[or]~~ condition or public nuisance that may adversely affect the health of a person.*

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 439.490 is hereby amended to read as follows:

439.490 Every health officer ~~[shall have authority to]~~ *or his designee may* order the abatement or removal of any nuisance detrimental to the public health in accordance with the laws relating to such matters.

Sec. 8. This act becomes effective on July 1, 2009.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Thank you, Mr. President. This amendment restores the measure to the amendatory language that the committee agreed to before we went into the pool business.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 100.

The following Assembly amendment was read:

Amendment No. 633.

"SUMMARY—Revises the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence. (BDR 43-342)"

"AN ACT relating to driving under the influence; revising the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the driver's license of a person convicted of driving under the influence is revoked for a certain period depending upon whether the violation is punishable as a first, second or third or subsequent violation that occurs within a period of 7 years. (NRS 483.460) This bill provides that the period of revocation of the driver's license of such a person must be based upon the total number of previous violations within a period of 7 years, regardless of how the violation is treated for sentencing purposes.

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

Section 1. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 5 of NRS 484.377.

(2) A *third or subsequent* violation *within 7 years* of NRS 484.379 or 484.379778 . ~~[that is punishable as]~~

*(3) A violation of NRS 484.379 or 484.379778 resulting in* a felony *conviction* pursuant to NRS 484.3792.

~~[(3)]~~ *(4)* A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.

➥ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A *second* violation *within 7 years* of NRS 484.379 or 484.379778 ~~[that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792]~~ and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a *first* violation *within 7 years* of NRS 484.379 or 484.379778 . ~~[that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.]~~

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 or 484.379778 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a *first* violation *within 7 years* of NRS 484.379 ~~[that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792]~~ has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 2. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a *second* violation *within 7 years* of NRS 484.379 , ~~[that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792,]~~ and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

➥ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484.3943:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which he is not eligible for a license, if he was convicted of:

(I) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(II) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792;

(2) After at least 180 days of the period during which he is not eligible for a license, if he was convicted of a violation of subsection 5 of NRS 484.377; or

(3) After at least 45 days of the period during which he is not eligible for a license, if he was convicted of a *first* violation *within 7 years* of NRS 484.379 . ~~[that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.]~~

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484.3943, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his work, or both; or

(b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his work, or both;

(b) To receive regularly scheduled medical care for himself or a member of his immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484.379, 484.3795 or 484.384;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

➥ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484.384 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 3. In determining the number of violations committed by a person for the purposes of NRS 483.460 and 483.490, as amended by this act, the amendatory provisions of this act apply to offenses committed before, on or after ~~[July 1, 2009.]~~ *the effective date of this act.*

Sec. 4. This act becomes effective ~~[on July 1, 2009.]~~ *upon passage and approval.*

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 100.

Remarks by Senator Care.

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

Thank you, Mr. President. The Assembly changed the effective date to, upon passage and approval, as opposed to July 1 of this year, and the committee concurs with the change.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 35

The following Assembly amendment was read:

Amendment No. 624.

"SUMMARY—Revises provisions relating to the prosecution of certain offenses. (BDR 15-272)"

"AN ACT relating to criminal procedure; providing that an acquittal of an offense in another jurisdiction is admissible in evidence in the trial in this State for the same offense; ~~[repealing]~~ *eliminating* the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another ~~[state, territory or]~~ country; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill amends existing law to provide that after a person is acquitted of a crime in another jurisdiction and a criminal prosecution is brought in the courts of this State for the same offense, the acquittal in the other jurisdiction is admissible in evidence in the prosecution in this State. (NRS 193.280)

Section ~~[2]~~ *1.5* of this bill ~~[: (1) repeals]~~ *revises* the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another state, territory or country ~~[; and (2) establishes the "dual sovereignty doctrine" in this State.]~~ *by eliminating the prohibition on the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another country.* (NRS 171.070) ~~[Under the dual sovereignty doctrine, successive prosecutions by two states, or by a state and the Federal Government, for the same criminal conduct are not barred by the double jeopardy clause of the Fifth Amendment to the United States Constitution. (Heath v. Alabama, 474 U.S. 82 (1985); United States v. Lanza, 260 U.S. 377 (1922))]~~

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

Section 1. NRS 193.280 is hereby amended to read as follows:

193.280 Whenever, upon the trial of any person for a crime, it appears that the offense was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted ~~[or convicted]~~ upon the merits, upon a criminal prosecution under the laws of such state or country, founded upon

the act or omission with respect to which he is upon trial, such former acquittal ~~[or conviction is a sufficient defense.]~~ *is admissible in evidence in the trial.*

*Sec. 1.5. NRS 171.070 is hereby amended to read as follows:*

171.070 When an act charged as a public offense is within the jurisdiction of another state ~~[,]~~ *or* territory . ~~[or country,]~~ as well as of this state, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this state.

Sec. 2. ~~[NRS 171.070 is hereby repealed.]~~ *(Deleted by amendment.)*

Sec. 3. The amendatory provisions of this act do not apply to offenses committed before July 1, 2009.

Sec. 4. This act becomes effective on July 1, 2009.~~[~~

~~TEXT OF REPEALED SECTION~~

~~171.070 Conviction or acquittal in another state, territory or country is bar where jurisdiction is concurrent. When an act charged as a public offense is within the jurisdiction of another state, territory or country, as well as of this State, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this State.]~~

Senator Care moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 35.

Remarks by Senator Care.

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

Thank you, Mr. President. This was the bill to which Nevada would have adopted the dual-sovereignty doctrine. The Assembly amended it to state that it would apply only to a conviction that occurs in another country as opposed to another jurisdiction somewhere within the United States. After talking to the committee, we decided to not concur so that we could talk to them about it.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 101.

The following Assembly amendment was read:

Amendment No. 625.

"SUMMARY—Makes various changes relating to securities. (BDR 7-416)"

"AN ACT relating to securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill: (1) changes the name of the entity that administers examinations for a sales representative from the National Association of Securities Dealers to the Financial Industry Regulatory Authority; and (2) requires a sales representative to pass either the Uniform Investment Adviser Law Examination or the Uniform Combined State Law Examination and the General Securities Registered Representative Examination. (NRS 90.340)

Sections 3 and 4 of this bill make technical changes to include references to the Investment Adviser Registration Depository and the Financial Industry Regulatory Authority. (NRS 90.350)

Section 5 of this bill removes the requirement in existing law that the Administrator of the Securities Division of the Office of the Secretary of State must obtain authorization from the Attorney General or his designee to examine the records of a person issuing securities who is not licensed but is required to be licensed. (NRS 90.410)

Section 7 of this bill increases the civil penalty that the Administrator may impose for a willful violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.630) Section 7 also authorizes the Administrator to order reimbursement for the costs of a proceeding to impose sanctions, including investigative costs and attorney's fees, rather than applying to a court for an order for reimbursement of such costs.

Section 7.5 of this bill increases the civil penalty that a district court may impose for a violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.640)

Section 8 of this bill provides that a court may order a person who is convicted of a willful violation of a statute, a regulation or an order of the Administrator to pay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. (NRS 90.650)

Section 9 of this bill provides that chapter 239A of NRS, which contains provisions regarding disclosure of financial records to governmental agencies, does not ~~[apply to a subpoena issued pursuant to chapter 90 of NRS.]~~ *prohibit the Administrator from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.* (NRS 239A.070)

*Section 9.5 of this bill increases: (1) the period that the court may delay the notification of a customer that a subpoena for the financial records of the customer has been issued from 60 days to 120 days; and (2) the period for any additional extension of such a delayed notification from 30 days to 60 days. (NRS 239A.100)*

Sections 10 and 11 of this bill authorize the Department of Motor Vehicles to issue a driver's license for purposes of identification only to a criminal

investigator employed by the Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 90.340 is hereby amended to read as follows:

90.340 1. The following persons are exempt from licensing under NRS 90.330:

(a) An investment adviser who is registered or is not required to be registered as an investment adviser under the Investment Advisers Act of 1940 if:

(1) Its only clients in this State are other investment advisers, broker-dealers or financial or institutional investors;

(2) The investment adviser has no place of business in this State and directs business communications in this State to a person who is an existing client of the investment adviser and whose principal place of residence is not in this State; or

(3) The investment adviser has no place of business in this State and during any 12 consecutive months it does not direct business communications in this State to more than five present or prospective clients other than those specified in subparagraph (1), whether or not the person or client to whom the communication is directed is present in this State;

(b) A representative of an investment adviser who is employed by an investment adviser who is exempt from licensing pursuant to paragraph (a);

(c) A sales representative licensed pursuant to NRS 90.310 who:

(1) Has passed ~~[one of]~~ the following examinations administered by the ~~[National Association of Securities Dealers, Inc.:]~~ *Financial Industry Regulatory Authority:*

(I) The Uniform Investment Adviser Law Examination, designated as the Series 65 examination; or

(II) The ~~[examination]~~ *Uniform Combined State Law Examination* designated as the Series 66 examination ~~[;]~~ *and the General Securities Registered Representative Examination, designated as the Series 7 examination;* or

(2) On January 1, 1996, has been continuously licensed in this State as a sales representative for 5 years or more; and

(d) Other investment advisers and representatives of investment advisers the Administrator by regulation or order exempts.

2. The Administrator may, by order or rule, waive the ~~[examination]~~ *examinations* required by subparagraph (1) of paragraph (c) of subsection 1 for an applicant or a class of applicants if the Administrator determines that the examination is not necessary for the protection of investors because of the training and experience of the applicant or class of applicants.

Sec. 3. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the *Investment Adviser Registration Depository, the* Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ *:*

*(a)* "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ *Financial Industry Regulatory Authority*, or its successor, and the North American Securities Administrators Association or its successor.

*(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.*

Sec. 4. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the

Administrator through the *Investment Adviser Registration Depository, the* Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ *:*

*(a)* "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ *Financial Industry Regulatory Authority*, or its successor, and the North American Securities Administrators Association or its successor.

*(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.*

Sec. 5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee, in order]~~ to determine compliance with this chapter. ~~[Broker-dealers,]~~ *Licensed broker-dealers,* sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. *The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall make their records available to the Administrator in legible form.*

*3.* Except as otherwise provided in subsection ~~[3,]~~ *4*, the Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

~~[3.]~~ *4.* The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

~~[4.]~~ *5.* The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit ~~[.]~~ for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance

Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~[National Association of Securities Dealers, Inc.,]~~ *Financial Industry Regulatory Authority,* any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt pursuant to this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce, or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the Administrator a notice setting

forth the material terms of the proposed sale and copies of any sales and advertising literature to be used and the Administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least $50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the general public.

(n) A security issued by an issuer registered as an open-end management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt pursuant to this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt pursuant to this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded $100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of $500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of $300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of $300 has been paid.

Sec. 7. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

➥ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing him to desist and refrain from further activity until the security is registered or he is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against him to cease and desist;

(b) Censure him if he is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend him from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than ~~[$2,500]~~ *$25,000* for ~~[a single]~~ *each* violation *;* or ~~[$100,000 for multiple violations in a single proceeding or a series of related proceedings; or]~~

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after he receives the

request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes him from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, *reimbursement for* the costs of the proceeding, including investigative costs and attorney's fees ~~[,]~~ *incurred*, may be *ordered and* recovered by the Administrator. *Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.*

Sec. 7.5. NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than ~~[$2,500]~~ *$25,000* for ~~[a single]~~ *each* violation *;* ~~[or $100,000 for multiple violations in a single proceeding or a series of related proceedings;]~~

(3) Issue a declaratory judgment;

(4) Order restitution to investors;

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs; or

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

(1) A temporary restraining order;

(2) A temporary or permanent injunction; or

(3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

(a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or

(b) Other relief as the court deems just.

Sec. 8. NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600, or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

➥ 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 20 years, or by a fine of not more than $500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution ~~[.]~~ *and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.*

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters ~~[90 or]~~ 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, Director of the Department of Health and Human Services, *Administrator of the Securities Division of the Office of the Secretary of State,* public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

*Sec. 9.5. NRS 239A.100 is hereby amended to read as follows:*

239A.100 1. Except as provided in subsection 2, a subpoena authorizing a governmental agency to obtain financial records may be served upon a financial institution only if:

(a) A copy of the subpoena is served upon the customer in the manner provided by law for the service of subpoenas, except that the copy may be served by an employee of the governmental agency;

(b) The subpoena includes the name of the agency in whose name it is issued and the statutory purpose for which the information is to be obtained; and

(c) The customer has not moved to quash the subpoena within 10 days after service of the copy of the subpoena upon the customer.

2. A governmental agency issuing or seeking a subpoena to obtain financial records may petition a court of competent jurisdiction to order that service upon the customer or the 10-day period provided in subsection 1 be waived or shortened. The court may issue the order upon a showing that the agency can reasonably infer from facts relevant to its investigation of the customer that a law subject to the agency's jurisdiction has been or is about to be violated. In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed ~~[60]~~ *120* days. The notice shall specify the name of the agency in whose name the subpoena was issued, the financial records which were examined under the subpoena and the statutory purpose for which the information was obtained. The time of notification may be extended for additional ~~[30-day]~~ *60-day* periods upon petition and good cause shown.

3. A court may order a financial institution to withhold notification to a customer of the receipt of the subpoena when the court issues an order under subsection 2 and if it finds that the notification would impede the investigation.

4. If a customer files a motion to quash the subpoena, the proceedings on the motion shall be afforded priority on the court calendar and the matter shall be heard within 10 days after the filing of the motion.

Sec. 10. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in

undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations , *criminal investigators employed by the Secretary of State while engaged in undercover investigations* and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General , *the Secretary of State or his designee* or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons

to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 11. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations *, criminal investigators employed by the Secretary of State while engaged in undercover investigations* and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General *, the Secretary of State or his designee* or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter

into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 12. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section 11 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or

(b) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.

Senator Care moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 101.

Remarks by Senator Care.

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

Thank you, Mr. President. This bill deals with Nevada's version of the Uniform Securities Act. The Assembly doubled two reporting periods to let a customer know that his records have been subpoenaed; I believe they are from 120-days to 60-days and 60-days to 30-days. We think that is too lengthy, and the committee requests that we do not concur.

Motion carried.

Bill ordered transmitted to the Assembly.

REPORTS OF CONFERENCE COMMITTEES

*Mr. President:*

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.

| | |
|---|---|
| DAVID R. PARKS | JERRY D. CLABORN |
| ALLISON COPENING | DEBBIE SMITH |
| DEAN A. RHOADS | JOHN C. CARPENTER |
| *Senate Conference Committee* | *Assembly Conference Committee* |

Senator Parks moved that the Senate adopt the report of the first Conference Committee concerning Senate Bill No. 109.

Motion carried.

Senator Horsford moved that the Senate recess until 6:30 p.m.

Motion carried.

Senate in recess at 5:09 p.m.

## SENATE IN SESSION

At 9:54 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 10, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which was referred Assembly Bill No. 22, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

*Mr. President:*

Your Committee on Finance, to which was referred Assembly Bill No. 458, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

*Mr. President:*

Your Committee on Health and Education, to which were referred Assembly Bills Nos. 111, 227, 349, 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Education, to which was referred Assembly Bill No. 433, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and rerefer to the Committee on Finance.

VALERIE WIENER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 20, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 355.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 631 to Assembly Bill No. 16; Senate Amendment No. 659 to Assembly Bill No. 89; Senate Amendment No. 617 to Assembly Bill No. 100; Senate Amendment No. 620 to Assembly Bill No. 109; Senate Amendment No. 604 to Assembly Bill No. 129; Senate Amendment No. 630 to Assembly Bill No. 154; Senate Amendment No. 629 to Assembly Bill No. 191; Senate Amendment No. 652 to Assembly Bill No. 192; Senate Amendment No. 680 to Assembly Bill No. 193; Senate Amendment No. 643 to Assembly Bill No. 204; Senate Amendment No. 653 to Assembly Bill No. 220; Senate Amendment No. 642 to Assembly Bill No. 233; Senate Amendment No. 622 to Assembly Bill No. 251; Senate Amendment No. 662 to Assembly Bill No. 263; Senate Amendment No. 596 to Assembly Bill No. 274; Senate Amendment No. 682 to Assembly Bill No. 307; Senate Amendment No. 665 to Assembly Bill No. 333; Senate Amendment No. 627 to Assembly Bill No. 348.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 703 to Assembly Bill No. 26; Senate Amendment No. 702 to Assembly Bill No. 56; Senate Amendment No. 738 to Assembly Bill No. 487.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 599 to Assembly Bill No. 24; Senate Amendment No. 621 to Assembly Bill No. 46; Senate Amendment No. 737 to Assembly Bill No. 350.

DIANE M. KEETCH
*Assistant Chief Clerk of the Assembly*

## WAIVERS AND EXEMPTIONS

### 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. 397.

GARY GHIGGERI
*Fiscal Analysis Division*

## MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Senate Resolution No. 9—Amending Senate Standing Rule Nos. 68 and 115 for the 75th Session of the Legislature to allow the Senate 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 SENATE OF THE STATE OF NEVADA, That Rule Nos. 68 and 115 of the Standing Rules of the Senate 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 has 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. When the Senate adjourns while a motion to reconsider is pending, or before passing the order of Motions and Resolutions, the right to move for reconsideration continues to the next day of sitting.

~~[2. No notice of reconsideration of any final vote is in order on the day preceding the last day of the session.]~~

Rule No. 115. Reconsideration of Vote on Bill.

1. ~~[On the day after the final vote on any bill, the]~~ *A* vote may be reconsidered on motion of any member . ~~[if notice of intention to move for reconsideration was given on the day the final vote was taken by a Senator who voted on the prevailing side. No motion to reconsider is in order on the day the final vote was taken, except by unanimous consent.]~~

2. Motions to reconsider a vote upon amendments to any pending question *and upon a final vote on a bill or resolution* may be made and decided at once.

Senator Care moved the adoption of the resolution.

Remarks by Senators Care and Raggio.

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

SENATOR CARE:
Thank you, Mr. President. The resolution makes changes to Standing Rules Nos. 68 and 115 further elaborating on the precedent of a motion to reconsider and the implications that would have to what is now the changed Rule No. 115.

SENATOR RAGGIO:
I understand the necessity of this and the reason. Do we anticipate that the other House will do the same?

SENATOR CARE:
That is my understanding.

SENATOR RAGGIO:
I would think so, because otherwise if mischief can occur, it can occur in either House.

SENATOR CARE:
That is correct.

Motion carried.

Resolution adopted.

By the Committee on Legislative Operations and Elections:

Senate Resolution No. 10—Expressing and explaining the public policy governing Rule No. 23 of the Standing Rules of the Senate for the 75th Session of the Legislature.

WHEREAS, It is a well-established principle of parliamentary practice that every member of the Legislature has a duty to vote unless prohibited or excused by the rules of the House (*Mason's Manual of Legislative Procedure* §§ 521 & 522 (2000) (*Mason's Manual*); Luther S. Cushing, *Elements of the Law & Practice of Legislative Assemblies* §§ 1789-91 (1856) (*Cushing's Legislative Assemblies* )); and

WHEREAS, Rule No. 23 of the Standing Rules of the Senate for the 75th Session of the Legislature provides that in determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by his acceptance of a gift or loan, his private economic interest or his commitment to a member of his household or his immediate family; and

WHEREAS, Rule No. 23 provides that if a Legislator knows he has a conflict of interest, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Senate, as applicable; and

WHEREAS, Rule No. 23 provides that in determining whether to abstain from voting upon or advocating or opposing a matter concerning which a Legislator has a conflict of interest, the Legislator should consider whether the conflict impedes his independence of judgment and whether his interest is greater than the interests of an entire class of persons similarly situated; and

WHEREAS, Rule No. 23 must be interpreted and applied in light of well-established principles of parliamentary practice that have been shaped, developed and followed by national and state legislatures for hundreds of years; and

WHEREAS, Rule No. 90 of the Standing Rules of the Senate for the 75th Session of the Legislature provides that "[t]he rules of parliamentary practice contained in *Mason's Manual of Legislative Procedure* shall govern the Senate in all cases in which they are applicable and in which they are not inconsistent with the standing rules and orders of the Senate, and the joint rules of the Senate and Assembly"; and

WHEREAS, Section 522 of *Mason's Manual* provides that "[t]he right of members to represent their constituencies is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal"; and

WHEREAS, Section 1791 of *Cushing's Legislative Assemblies* provides that "[i]nterest in a question pending in the house, is good cause for disallowing a vote; but such an interest must be a direct pecuniary interest, belonging to a separate description of individuals, and not such as also belongs to all the citizens, arising out of any measure of state policy"; and

WHEREAS, Section 1791 of *Cushing's Legislative Assemblies* further provides that disqualification to vote generally "applies only to private bills, or bills relating to individuals, such as estate bills, inclosure bills, canals, joint-stock companies, etc., wherein only the individual profit or loss is concerned . . . but does not apply to questions of interest arising out of public measures, such as tax bills, colonial regulations, domestic trades, and the like"; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the fundamental purpose of representative government in this State is to elect citizen Legislators who will advocate and vote on behalf of their constituents so that those constituents are fully represented in the people's branch of government and their voices are effectively heard regarding the most critical legislative measures that affect both the general welfare of this State and their everyday lives; and be it further

RESOLVED, That there are legislative measures of immense statewide importance, such as bills raising revenue and bills approving the budget of the State Government, which globally impact all citizens of this State because such measures set the fiscal, economic and social priorities of this State and thereby influence and affect every aspect of our society; and be it further

RESOLVED, That the public policy of this State favors the right of citizen Legislators to perform the duties for which they were elected and to vote or otherwise act upon a matter, provided they have properly disclosed any conflicts of interest; and be it further

RESOLVED, That because abstention by a Legislator disrupts the normal course of representative government and deprives the public and the Legislator's constituents of a voice in the most important governmental affairs, Rule No. 23 is intended to require abstention only in clear cases and when the matter is particularly personal; and be it further

RESOLVED, That Rule No. 23 does not require any member of the Senate to abstain from voting upon or advocating or opposing legislative measures of immense statewide importance which globally impact all citizens of this State because, in such cases, the very nature of such legislative measures presumptively makes the interests of every member of the Senate no greater than the interests of every other citizen of this State, and therefore, the independence of judgment of members is not impeded by those interests and they are not required to abstain; and be it further

RESOLVED, That during the 75th Session of the Legislature, the legislative measures of immense statewide importance which globally impact all citizens of this State include the General Appropriations Act, the Authorized Expenditures Act, the Unclassified Pay Act, the State Distributive School Account Act and any legislative measures that increase various taxes and revenue sources necessary to fund the State Budget, such as Senate Bill No. 429; and be it further

RESOLVED, That this resolution shall be entered upon the Journal of the Senate.

Senator Care moved the adoption of the resolution.

Remarks by Senators Horsford, Amodei, Raggio and Coffin.

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

SENATOR HORSFORD:

Throughout history, Nevadans have chosen a citizens' Legislature as their form of government from mothers, fathers, retirees, businessmen and women, and teachers. This system is founded on the principles of transparency and disclosure of personal conflict of interest. Among those most committed to the principles of a citizen Legislature is the Minority Leader Bill Raggio. I applaud him for his 37 years of commitment to the ethical principles of full disclosure of personal conflict.

For this reason, I am introducing a Senate resolution that would allow an exemption to Rule No. 23, which provides for legislative ethical guidelines, including those governing conflicts of interest. The proposed resolution creates an exception to the rule enabling legislators to vote on issues that globally impact all citizens of this State, such as those facing the Legislature, today. I believe all Legislators should have the ability to execute their sworn constitutional duty to balance the budget of the State and represent the interests of Nevada's citizens.

We all understand that Nevada faces unprecedented times. Our State is in a real crisis, and the people of Nevada elected us to be a part of the solution. Among those duties we have as Legislators, the duty to vote is the most fundamental. The decisions facing us are of immense statewide importance that will define our State now and in 20 years. These are decisions that we must have the full participation of the elected officials who represent all of Nevada.

SENATOR AMODEI:

I appreciate the remarks of the Majority Leader. As I read the resolution for the first time, I could not agree more with the tenets of people being citizen Legislators. Having done this for 12 years where I have followed the rules, filed disclosure letters to make certain I remain above reproach in terms of the two tenets disclosure and where there is appropriate abstention, I applaud the Minority Leader's words earlier today and the issue itself.

I am concerned by the timing of our decision to make certain that everyone in the citizen Legislature has the utmost ability to act in these times. Context is important. It will be interesting to see how the context is judged. It worries me in terms of what is at stake. The timing and context is unmistakable.

As I look at this, I have a few questions. In line 2, it states, "should be barred from voting on matters of direct personal interest only in clear cases in which the matter is particularly personal." For purposes of operating within the rules of this during the next ten days, has anyone requested from the Legislative Counsel a general definition of "particularly personal"? Are all members of the Senate going to have to go to the Legislative Counsel for the next ten days to get individual determinations of "particularly personal" as opposed to "personal"? What is the procedure for us in light of this new resolution to determine whether our interest is "particularly personal"?

SENATOR HORSFORD:

Under *Mason's Manual of Legislative Procedure*, which is followed by this body, every member of the Legislature has a duty to vote unless prohibited or excused by the rules of the House. *Mason's* further provides that the rights of members to represent their constituencies is of such major importance that members should be barred from matters of direct personal interest only in clear cases and when the matter is particularly personal.

That is why I believe that the language that is in the resolution, particularly in the last paragraph, speaks to those measures of immense statewide importance, which globally impact all citizens of the State, that include the General Appropriations Act, the Authorized Expenditures Act, the Unclassified Pay Act, the State Distributive School Account Act and any legislative measures that increase various taxes and revenue sources necessary to fund the state budget. Those are the measures specifically outlined in the resolution.

SENATOR AMODEI:

Is the answer to my question, there are not "particularly personal" interests in the context of those sorts of measures that you have just sited. There is no need for members to check because

for those matters, according to this resolution, there is no such thing as a "particularly personal interest" in those contexts. Is that a correct assumption on my part from your answer, Mr. Majority Leader?

SENATOR HORSFORD:
Yes.

SENATOR AMODEI:
On page 3, at the bottom, it states, "Resolved, that the public policy of this State favors the right of citizen Legislators to perform the duties for which they were elected and to vote or otherwise act upon a matter." I could not agree with that more. The last line states, "provided they have properly disclosed any conflicts of interests." What are the disclosure rules as a result of the enactment of this because this is a two-part issue, disclosure being the first; do we still have to disclose what our business, personal, whatever interests are before voting?

SENATOR HORSFORD:
That question was asked of our Counsel. The response was that we would make the same disclosures as currently required in Rule No. 23.

SENATOR AMODEI:
Legislature bashing has always been a state sport in Nevada. It always will be. It will be interesting to see what the view of our actions is in the context of this resolution. I will not be supporting it because in the context it comes in; it is something that is, specifically, aimed at a situation which threatened a vote which it should not have. I do not think the Minority Leader should have to abstain. However, to change the rules within 48 hours of when we have important business to send to the other House, speaks for itself. It is a sad day for the fabric of this process.

SENATOR RAGGIO:
Thank you, Mr. President. I did not request this resolution. I appreciate the generous remarks from the Majority Leader about the situation and my disclosure in the Senate. I was given a copy of this, and I took it to the Legislative Counsel. I asked if we pass this resolution in this form, what does that do with respect to the opinion previously given to me as to my ability or inability to vote on these matters, including the tax-revenue measure. I was informed that if this resolution is enacted, expressing the will of this body, then, I would be eligible to vote and would be required to vote.

SENATOR AMODEI:
I wish to disclose under Senate Resolution No. 10 that I do not have any conflicts in voting for this but cannot wait to hear the disclosures later.

SENATOR COFFIN:
These are serious times, and we must not make light of them. The Senator spoke of timing, thinks it is curious and is wondering why. Why is there the necessity for us to rely upon hundreds of years of parliamentary procedure to regain control of the process through which we can independently operate and independently represent our constituents? I say, the timing is important because no one could control the timing of those who brought two of our members under serious personal attack and who scratched and scraped to find ways to accuse them falsely of conflicts of interest, blackening their reputations. It runs against our Legislature to let those kinds of attacks stand unanswered. It is in all of our interests to play by the rules and to not let outside, insidious forces attempt to influence our process beyond the normal rights of citizens to petition their Legislature given in the Constitutions of the United States and the State of Nevada. That is why this resolution is timely.

Resolution adopted.

Senator Carlton moved that all necessary rules be suspended, and that Assembly Bill No. 22 reported out of committee be placed on the Second Reading File on the next agenda.

Motion carried.

Senator Wiener moved that all necessary rules be suspended, and that Assembly Bill No. 433 reported out of committee be placed on the Second Reading File on the next agenda.

Motion carried.

Senator Lee moved that Assembly Bill No. 397 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Mathews moved that all necessary rules be suspended, and that Assembly Bill No. 458 reported out of committee be placed on the Second Reading File on the next agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 355.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 426.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 858.

"SUMMARY—Revises provisions relating to insurance. (BDR 57-1203)"

"AN ACT relating to insurance; creating the Fund for Insurance Administration and Enforcement and new fees to provide money for the Fund; eliminating certain restrictions on out-of-state insurers; requiring certain insurers to comply with newly enacted federal acts; revising provisions related to the Federal Deposit Insurance Corporation; requiring certain health ~~[care plans and policies of insurance]~~ *insurers* to provide ~~[continued coverage for certain]~~ *notice regarding a change in its formulary concerning* prescription drugs related to transplanted organs ~~[;]~~ *in certain circumstances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-3 of this bill create: (1) the Fund for Insurance Administration and Enforcement as an enterprise fund to carry out the provisions of the Nevada Insurance Code; and (2) new fees to provide money for the Fund.

Sections 7 and 85 of this bill eliminate certain restrictions on out-of-state insurers due to a court decision by the United States Ninth Circuit Court of Appeals (*Council of Insurance Agents & Brokers v. Molasky-Arman*,

522 F.3d 925 (9th Cir. 2008)). (NRS 680A.300, 695E.130) This case holds that Nevada law violates the Privileges and Immunities Clause of the United States Constitution regarding nonresident insurance agents and resident agents.

Sections 35-38 and 55-58 of this bill require certain insurers to comply with newly enacted federal acts.

*Section 38.5 of this bill requires an insurer that issues policies of health insurance to provide notice before changing its formulary within the plan year if the change will affect a prescription drug used by an insured to prevent the rejection of a transplanted organ. Section 98 of this bill makes this provision applicable to self-funded plans of a local governmental agency. (NRS 287.010)*

Sections 102 and 103 of this bill revise provisions related to the Federal Deposit Insurance Corporation.

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555)

~~[ Sections 49, 52, 59, 67, 70, 78, 86 and 90 of this bill require those health care plans and policies of insurance, other than the State Plan for Medicaid, to also provide continued coverage for certain prescription drugs related to transplanted organs. These and any related provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after June 15, 2009.]~~

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. The Fund for Insurance Administration and Enforcement is hereby created in the State Treasury as an enterprise fund.*

*2. The Fund must be used solely for the administration and enforcement of the Code and other laws and regulations enforced by the Division.*

*3. The State Treasurer shall invest the money in the Fund in the same manner and in the same securities in which he is authorized to invest state general funds that are in his custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.*

Sec. 3. *1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.*

*2. A fee required by this section must be:*

*(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;*

*(b) If an annual fee, paid on or before March 1 of every year;*

*(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and*

*(d) Deposited in the Fund for Insurance Administration and Enforcement created by section 2 of this act.*

*3. The fees required pursuant to this section are not refundable.*

*4. The following fees must be paid by the following persons to the Commissioner:*

*(a) Associations of self-insured private employers, as defined in NRS 616A.050:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(b) Associations of self-insured public employers, as defined in NRS 616A.055:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(c) External review organizations, as provided for in NRS 616A.469 or 683A.371, or both:*

*(1) Initial fee ..... $60*

*(2) Annual fee ..... $60*

*(d) Insurers not otherwise provided for in this subsection:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(e) Producers of insurance, as defined in NRS 679A.117:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(f) Accredited reinsurers, as provided for in NRS 681A.160:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(g) Intermediaries, as defined in NRS 681A.330:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(h) Reinsurers, as defined in NRS 681A.370:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(i) Administrators, as defined in NRS 683A.025:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(j) Managing general agents, as defined in NRS 683A.060:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(k) Agents who perform utilization reviews, as defined in NRS 683A.376:*

*(1) Initial fee ..... $60*
*(2) Annual fee ..... $60*
*(l) Insurance consultants, as defined in NRS 683C.010:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(m) Independent adjusters, as defined in NRS 684A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(n) Public adjusters, as defined in NRS 684A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(o) Associate adjusters, as defined in NRS 684A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(q) Brokers, as defined in NRS 685A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(r) Eligible surplus line insurers, as provided for in NRS 685A.070:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(s) Companies, as defined in NRS 686A.330:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(t) Rate service organizations, as defined in NRS 686B.020:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(u) Brokers of viatical settlements, as defined in NRS 688C.030:*
*(1) Initial fee ..... $60*
*(2) Annual fee ..... $60*
*(v) Providers of viatical settlements, as defined in NRS 688C.080:*
*(1) Initial fee ..... $60*
*(2) Annual fee ..... $60*
*(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*

*(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(aa) Providers, as defined in NRS 690C.070:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(bb) Escrow officers, as defined in NRS 692A.028:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(cc) Title agents, as defined in NRS 692A.060:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(dd) Captive insurers, as defined in NRS 694C.060:*

*(1) Initial fee ..... $250*

*(2) Annual fee ..... $250*

*(ee) Fraternal benefit societies, as defined in NRS 695A.010:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(ff) Insurance agents for societies, as provided for in NRS 695A.330:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(gg) Corporations subject to the provisions of chapter 695B of NRS:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(hh) Health maintenance organizations, as defined in NRS 695C.030:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(ii) Organizations for dental care, as defined in NRS 695D.060:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(jj) Purchasing groups, as defined in NRS 695E.100:*

*(1) Initial fee ..... $250*

*(2) Annual fee ..... $250*

*(kk) Risk retention groups, as defined in NRS 695E.110:*

*(1) Initial fee ..... $250*

*(2) Annual fee ..... $250*

*(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(mm) Medical discount plans, as defined in NRS 695H.050:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(nn) Club agents, as defined in NRS 696A.040:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(oo) Motor clubs, as defined in NRS 696A.050:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(pp) Bail agents, as defined in NRS 697.040:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(qq) Bail enforcement agents, as defined in NRS 697.055:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(rr) Bail solicitors, as defined in NRS 697.060:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(ss) General agents, as defined in NRS 697.070:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*

Sec. 4. NRS 679B.380 is hereby amended to read as follows:

679B.380 1. Except as otherwise expressly provided in this Code, funds with which to carry out the administration and enforcement by the Commissioner of this Code shall be provided by [legislative appropriation from the General Fund] *the Fund for Insurance Administration and Enforcement created by section 2 of this act* and shall be paid out on claims as other claims against the State are paid.

2. No such claim shall be paid unless approved by the commissioner.

Sec. 5. NRS 680A.150 is hereby amended to read as follows:

680A.150 To apply for an original certificate of authority an insurer shall file with the Commissioner its written application therefor on forms as prescribed and furnished by the Commissioner, accompanied by the applicable fees specified in NRS 680B.010 ~~[,]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act,* stating under the oath of the president or vice president or other chief officer and the secretary of the insurer, or of the attorney-in-fact if a reciprocal insurer, the insurer's name, location of its home office, or principal office in the United States if an alien insurer, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and such additional information as the Commissioner may reasonably require, together with the following documents, as applicable:

1. If a corporation, a copy of its charter or certificate or articles of incorporation, together with all amendments thereto, or as restated and amended under the laws of its state or country of domicile, currently certified

by the public officer with whom the originals are on file in that state or country.

2. If a domestic incorporated insurer or a mutual insurer, a copy of its bylaws, certified by the insurer's corporate secretary.

3. If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in NRS 694B.060.

4. A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two executive officers of the insurer or certified by the public insurance supervisory officer of the insurer's state of domicile, or of entry into the United States if an alien insurer.

5. A copy of the report of last examination made of the insurer within not more than 5 years next preceding, certified by the public insurance supervisory officer of the insurer's state of domicile, or of entry into the United States if an alien insurer.

6. The appointment of the Commissioner pursuant to NRS 680A.250 as its attorney to receive service of legal process.

7. If a foreign or alien insurer, a certificate of the public insurance supervisory officer of its state or country of domicile showing that it is authorized or qualified for authority to transact in such state or country the kinds of insurance proposed to be transacted in this state.

8. If a foreign insurer, a certificate as to a deposit if it is to be tendered pursuant to NRS 680A.140.

9. A copy of the insurer's rate book and of each form of policy currently proposed to be issued in this state, and of the form of application therefor.

10. If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

11. Designation by the insurer of its officer or representative authorized to appoint and remove its agents in this state.

Sec. 6. NRS 680A.180 is hereby amended to read as follows:

680A.180 1. A certificate of authority continues in force as long as the insurer is entitled thereto under this Code, and until suspended or revoked by the Commissioner or terminated at the insurer's request, if, each year, the insurer:

(a) Pays on or before March 1 the continuation fee provided in NRS 680B.010 ~~[,]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act;*

(b) Files its annual statement for the next preceding calendar year as required by NRS 680A.270; and

(c) Pays, if required, the premium taxes for the preceding calendar year.

2. If not so continued by the insurer, its certificate of authority expires at midnight on the May 31 next following such failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in NRS 680A.190. The Commissioner shall promptly notify the insurer of the

occurrence of any failure resulting in the impending expiration of its certificate of authority.

3. The Commissioner may, upon the insurer's request made within 3 months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration, and upon payment by the insurer of the fee for reinstatement specified in subsection 1 of NRS 680B.010. Otherwise, the insurer may be granted another certificate of authority only after filing an application therefor and meeting all other requirements for an original certificate of authority in this state.

Sec. 7. NRS 680A.300 is hereby amended to read as follows:

680A.300 1. Except as provided in NRS 680A.310, no authorized insurer may make, write, place, renew or cause to be made, placed or renewed, any policy or duplicate policy , *endorsement or contract* of insurance of any kind upon persons, property or risks resident, located or to be performed in this State, except through its duly appointed and licensed agents , ~~[resident in this State,]~~ any one of whom shall countersign the policy ~~[.]~~ *, endorsement or contract.*

2. Where two or more insurers jointly issue a single policy, the policy may be countersigned, on behalf of all insurers appearing thereon, by a *duly appointed and* licensed agent ~~[resident in this State]~~ of any one insurer.

3. In any case where it is necessary to execute an emergency bond and a commissioned agent authorized to execute the bond is not present, a manager or other employee of the insurer having authority under a power of attorney may execute the bond in order to produce a valid contract between the insurer and the obligee. The bond must subsequently be countersigned by a ~~[resident]~~ commissioned agent ~~[,]~~ who *is authorized to execute the bond. The commissioned agent who executes the bond* shall make and retain an adequate office record of the transaction.

4. ~~[Nothing contained in this section prevents exercise of the free and unlimited right to negotiate contracts by licensed nonresident agents or brokers outside this State, if the policies, endorsements or evidence of those contracts covering properties or insurable interests in this State are countersigned by a registered agent of this State. Every such policy or contract must be countersigned by a registered agent.~~

~~5. On business produced by a licensed nonresident agent or broker, which is countersigned by a resident commissioned agent of this State, there must be a division of the usual commission between the licensed nonresident producing agent or broker and the resident countersigning commissioned agent which must produce for the latter a commission of at least 5 percent of the premium. No commission or fee is required as to policies with an annual premium of $250 or less. The insurer issuing any policy or bond is responsible for payment to the countersigning agent of the fee or commission for the countersignature. Where the licensed nonresident agent or broker or the insurer assuming the risk desires the resident commissioned agent to~~

~~render additional services during the life of a policy, the compensation to the countersigning commissioned registered agent is a matter of contract between the parties in interest.~~

~~6.]~~ An insurer may use an endorsement to the policy for the sole purpose of countersigning the policy, as required in this section, only if:

(a) The endorsement is attached to the policy to which it applies; and

(b) The policy insures persons or property in this State and one or more other states.

Sec. 8. NRS 680B.010 is hereby amended to read as follows:

680B.010 The Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, fees and miscellaneous charges as follows:

1. Insurer's certificate of authority:

(a) Filing initial application ..... $2,450

(b) Issuance of certificate:

(1) For any one kind of insurance as defined in NRS 681A.010 to 681A.080, inclusive ..... 283

(2) For two or more kinds of insurance as so defined ..... 578

(3) For a reinsurer ..... 2,450

(c) Each annual continuation of a certificate ..... 2,450

(d) Reinstatement pursuant to NRS 680A.180, 50 percent of the annual continuation fee otherwise required.

(e) Registration of additional title pursuant to NRS 680A.240 ..... 50

(f) Annual renewal of the registration of additional title pursuant to NRS 680A.240 ..... 25

2. Charter documents, other than those filed with an application for a certificate of authority. Filing amendments to articles of incorporation, charter, bylaws, power of attorney and other constituent documents of the insurer, each document ..... $10

3. Annual statement or report. For filing annual statement or report ..... $25

4. Service of process:

(a) Filing of power of attorney ..... $5

(b) Acceptance of service of process ..... 30

5. Licenses, appointments and renewals for producers of insurance:

(a) Application and license ..... $125

(b) Appointment fee for each insurer ..... 15

(c) Triennial renewal of each license ..... 125

(d) Temporary license ..... 10

(e) Modification of an existing license ..... 50

6. Surplus lines brokers:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

7. Managing general agents' licenses, appointments and renewals:
(a) Application and license ..... $125
(b) Appointment fee for each insurer ..... 15
(c) Triennial renewal of each license ..... 125
8. Adjusters' licenses and renewals:
(a) Independent and public adjusters:
(1) Application and license ..... $125
(2) Triennial renewal of each license ..... 125
(b) Associate adjusters:
(1) Application and license ..... 125
(2) Triennial renewal of each license ..... 125
9. Licenses and renewals for appraisers of physical damage to motor vehicles:
(a) Application and license ..... $125
(b) Triennial renewal of each license ..... 125
10. Additional title and property insurers pursuant to NRS 680A.240:
(a) Original registration ..... $50
(b) Annual renewal ..... 25
11. Insurance vending machines:
(a) Application and license, for each machine ..... $125
(b) Triennial renewal of each license ..... 125
12. Permit for solicitation for securities:
(a) Application for permit ..... $100
(b) Extension of permit ..... $50
13. Securities salesmen for domestic insurers:
(a) Application and license ..... $25
(b) Annual renewal of license ..... 15
14. Rating organizations:
(a) Application and license ..... $500
(b) Annual renewal ..... 500
15. Certificates and renewals for administrators licensed pursuant to chapter 683A of NRS:
(a) Application and certificate of registration ..... $125
(b) Triennial renewal ..... 125
16. For copies of the insurance laws of Nevada, a fee which is not less than the cost of producing the copies.
17. Certified copies of certificates of authority and licenses issued pursuant to the Code ..... $10
18. For copies and amendments of documents on file in the Division, a reasonable charge fixed by the Commissioner, including charges for duplicating or amending the forms and for certifying the copies and affixing the official seal.
19. Letter of clearance for a producer of insurance or other

licensee if requested by someone other than the licensee ..... $10

20. Certificate of status as a producer of insurance or other licensee if requested by someone other than the licensee ..... $10

21. Licenses, appointments and renewals for bail agents:

(a) Application and license ..... $125

(b) Appointment for each surety insurer ..... 15

(c) Triennial renewal of each license ..... 125

22. Licenses and renewals for bail enforcement agents:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

23. Licenses, appointments and renewals for general agents for bail:

(a) Application and license ..... $125

(b) Initial appointment by each insurer ..... 15

(c) Triennial renewal of each license ..... 125

24. Licenses and renewals for bail solicitors:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

25. Licenses and renewals for title agents and escrow officers:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

(c) Appointment fee for each title insurer ..... 15

(d) Change in name or location of business or in association ..... 10

26. Certificate of authority and renewal for a seller of prepaid funeral contracts ..... $125

27. Licenses and renewals for agents for prepaid funeral contracts:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... $125

28. Licenses, appointments and renewals for agents for fraternal benefit societies:

(a) Application and license ..... $125

(b) Appointment for each insurer ..... 15

(c) Triennial renewal of each license ..... 125

29. Reinsurance intermediary broker or manager:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

30. Agents for and sellers of prepaid burial contracts:

(a) Application and certificate or license ..... $125

(b) Triennial renewal ..... 125

31. Risk retention groups:

(a) Initial registration ..... $250

(b) Each annual continuation of a certificate of registration ..... 250

32. Required filing of forms:

(a) For rates and policies ..... $25

(b) For riders and endorsements ..... 10

33. Viatical settlements:

(a) Provider of viatical settlements:
(1) Application and license ..... $1,000
(2) Annual renewal ..... 1,000
(b) Broker of viatical settlements:
(1) Application and license ..... 500
(2) Annual renewal ..... 500
(c) Registration of producer of insurance acting as a viatical settlement broker ..... 250
34. Insurance consultants:
(a) Application and license ..... $125
(b) Triennial renewal ..... 125
35. Licensee's association with or appointment or sponsorship by an organization:
(a) Initial appointment, association or sponsorship, for each organization ..... $50
(b) Renewal of each association or sponsorship ..... 50
(c) Annual renewal of appointment ..... 15
36. Purchasing groups:
(a) Initial registration and review of an application ..... $100
(b) Each annual continuation of registration ..... 100
*37. In addition to any other fee or charge, all applicable fees required of any person, including, without limitation, persons listed in this section, pursuant to section 3 of this act.*

Sec. 9. NRS 680B.060 is hereby amended to read as follows:

680B.060 1. The taxes imposed under NRS 680B.027 must be collected by the Department of Taxation and promptly deposited with the State Treasurer for credit to the State General Fund.

2. If the tax is not paid by the insurer on or before the date required for payment, the tax then becomes delinquent, and payment thereof may be enforced by court action instituted on behalf of the State by the Attorney General. The Attorney General may employ additional counsel in the city where the home office of the insurer is located, subject to the approval of compensation for such services by the State Board of Examiners. The administrative and substantive enforcement provisions of chapters 360 and 372 of NRS apply to the enforcement of the taxes imposed under NRS 680B.027.

3. Upon the tax becoming delinquent, the Executive Director of the Department of Taxation shall notify the Commissioner, who shall suspend or revoke the insurer's certificate of authority pursuant to NRS 680A.190.

4. If a dispute arises between an insurer and the State as to the amount of tax, if any, payable, the insurer is entitled to pay under protest the tax in the amount assessed by the Department of Taxation, without waiving or otherwise affecting any right of the insurer to recover any amount determined, through appropriate legal action taken by the insurer against the

Department of Taxation, to have been in excess of the amount of tax lawfully payable.

5. ~~[All]~~ *Except as otherwise provided in section 3 of this act, all* taxes, fees, licenses, fines and charges collected under this Code, including the general premium tax provided for under NRS 680B.027 and as increased in any instances pursuant to NRS 680A.330, must be promptly deposited with the State Treasurer for credit to the State General Fund.

Sec. 10. NRS 681A.160 is hereby amended to read as follows:

681A.160 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

(a) Files with the Commissioner an executed form approved by the Commissioner as evidence of its submission to this state's jurisdiction;

(b) Submits to this state's authority to examine its books and records;

(c) Files with the Commissioner a certified copy of a certificate of authority or other evidence approved by the Commissioner indicating that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a branch in the United States of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the Commissioner a copy of its annual statement filed with the Division of its state of domicile or entry and a copy of its most recent audited financial statement; ~~[and]~~

(e) Maintains a surplus as regards policyholders in an amount which is not less than $20,000,000 and whose accreditation:

(1) Has not been denied by the Commissioner within 90 days after its submission; or

(2) Has been approved by the Commissioner ~~[.]~~ *; and*

*(f) Pays all applicable fees, including, without limitation, all applicable fees required pursuant to section 3 of this act.*

2. No credit may be allowed for a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and a hearing.

Sec. 11. NRS 681A.430 is hereby amended to read as follows:

681A.430 1. The Commissioner may issue a license to act as an intermediary to any person who has complied with the requirements of NRS 681A.250 to 681A.580, inclusive, and who submits a written application for a license to act as an intermediary , ~~[and]~~ the appropriate fee set forth in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* A license issued to a firm or association authorizes all the members of the firm or association and any designated employees to act as intermediaries. All those persons must be named in the application and any supplements thereto. A license issued to a corporation authorizes all of the officers and any designated employees and directors of the corporation to act as intermediaries on behalf

of the corporation. All those persons must be named in the application and in any supplements thereto.

2. If an applicant for a license to act as an intermediary is a nonresident, he shall:

(a) Designate the Commissioner as agent for service of process;

(b) Furnish the Commissioner with the name and address of a resident of Nevada upon whom notices or orders of the Commissioner or process affecting the nonresident reinsurance intermediary may be served; and

(c) Promptly notify the Commissioner in writing of every change in his designated agent for service of process. The change is not effective until acknowledged by the Commissioner.

Sec. 12. NRS 683A.08524 is hereby amended to read as follows:

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

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

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

(c) Pays the fee for the issuance of a certificate of registration prescribed in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. The Commissioner may refuse to issue a certificate of registration as an administrator to an applicant if the Commissioner determines that the applicant or any person who has completed an affidavit pursuant to subsection 6 of NRS 683A.08522:

(a) Is not competent to act as an administrator;

(b) Is not trustworthy or financially responsible;

(c) Does not have a good personal or business reputation;

(d) Has had a license or certificate to transact insurance denied for cause, suspended or revoked in this state or any other state;

(e) Has failed to comply with any provision of this chapter; or

(f) Is financially unsound.

Sec. 13. NRS 683A.08526 is hereby amended to read as follows:

683A.08526 1. A certificate of registration as an administrator is valid for 3 years after the date the Commissioner issues the certificate to the administrator.

2. An administrator may renew a certificate of registration if he submits to the Commissioner:

(a) An application on a form prescribed by the Commissioner; and

(b) The fee for the renewal of the certificate of registration prescribed in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. A certificate of registration that is suspended or revoked must be surrendered immediately to the Commissioner.

Sec. 14. NRS 683A.160 is hereby amended to read as follows:

683A.160 Each applicant for a license as a managing general agent must submit with his application:

1. A complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

2. The appointment of the applicant as a managing general agent by each insurer or underwriter department to be so represented; and

3. The application and license fee specified in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 15. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; and

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

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

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

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

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

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

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

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

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

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

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

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, ~~[the fee]~~ *all applicable fees* for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for

each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of ~~[the]~~ *all applicable* renewal ~~[fee.]~~ *fees, except for any fee required pursuant to section 3 of this act.* A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

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

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

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

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

Sec. 17. NRS 683A.271 is hereby amended to read as follows:

683A.271 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a nonresident person if:

(a) He is currently licensed as a resident and in good standing in his home state;

(b) He has made the proper request for licensure and paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account;

(c) He has sent to the Commissioner the application for licensure that he made in his home state, or a completed uniform application; and

(d) His home state issues nonresident licenses as producers of insurance to residents of this State pursuant to substantially the same procedure.

2. The Commissioner may participate with the National Association of Insurance Commissioners or a subsidiary in a centralized registry in which licensing and appointment of producers of insurance may be effected for all states that require licensing and participate in the registry. If he finds that participation is in the public interest, he may adopt by regulation any uniform standards and procedures necessary for participation, including central collection of fees for licensing and appointment that are handled through the registry.

3. A nonresident producer who moves from one state to another state shall file a change of address and certification from his new state of residence within 30 days after his change of legal residence. No fee or application for license is required.

4. A nonresident licensed as a producer for surplus lines in his home state must be issued a nonresident license of that kind in this State pursuant to subsection 1, subject in all other respects to chapter 685A of NRS. A nonresident licensed as a producer for limited lines in his home state is entitled to a nonresident license of that kind in this State pursuant to subsection 1, granting the same scope of authority as the license issued in the home state. As used in this subsection, insurance for limited lines is authority granted by the home state which is restricted to less than the total authority prescribed for the associated major lines pursuant to NRS 683A.261.

Sec. 18. NRS 683A.371 is hereby amended to read as follows:

683A.371 1. An external review organization shall not conduct an external review of a final adverse determination pursuant to NRS 695G.241 to 695G.310, inclusive, unless the external review organization is certified in accordance with regulations adopted by the Commissioner. The regulations must include, without limitation, provisions setting forth:

(a) The manner in which an external review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section; and

(c) The manner and circumstances under which an external review organization is required to conduct its business.

2. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

3. Except as otherwise provided in subsection 6, before the Commissioner may certify an external review organization, the external review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an external review organization set forth in this section and NRS 695G.241 to 695G.310, inclusive. The demonstration must include, without limitation, proof that the external review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the external review organization will:

(1) Conduct its external review activities in accordance with the provisions of this section and NRS 695G.241 to 695G.310, inclusive;

(2) Provide its determinations in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

4. For the purposes of this section, an external review organization has a conflict of interest if the external review organization or any employee, agent or contractor of the external review organization who conducts an external review has a material professional, familial or financial interest in any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The insured;

(b) The insurer or any officer, director or management employee of the insurer;

(c) The provider of health care services that are provided or proposed to be provided, his partner or any other member of his medical group or practice;

(d) The hospital or other licensed health care facility where the health care service or treatment that is subject to external review has been or will be provided; or

(e) A developer, manufacturer or other person who has a substantial interest in the principal procedure, equipment, drug, device or other instrumentality that is the subject of the external review.

5. The Commissioner shall not certify an external review organization that is affiliated with:

(a) A health care plan; or

(b) A national, state or local trade association.

6. An external review organization that is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for certification pursuant to this section.

7. The Commissioner may charge and collect ~~[a fee]~~ *all applicable fees* for issuing or renewing a certificate of an external review organization pursuant to this section. ~~[The fee must not exceed the cost of issuing or renewing the certificate.]~~

8. The Commissioner shall annually prepare and make available to the general public a list that includes the name of each external review organization which is issued a certificate or whose certificate is renewed pursuant to this section during the year immediately preceding the year in which the Commissioner prepares the list.

9. As used in this section:

(a) "Adverse determination" has the meaning ascribed to it in NRS 695G.012.

(b) "External review organization" has the meaning ascribed to it in NRS 695G.018.

(c) "Provider of health care" means any physician or other person who is licensed in this State or is licensed, certified or otherwise authorized by any other state to provide any health care service.

Sec. 19. NRS 683A.378 is hereby amended to read as follows:

683A.378 1. A person shall not conduct utilization review unless he is:

(a) Registered with the Commissioner as an agent who performs utilization review and has a medical director who is a physician or, in the case of an agent who reviews dental services, a dentist, licensed in any state; or

(b) Employed by a registered agent who performs utilization review.

2. A person may apply for registration by filing with the Commissioner a $250 fee *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act* and the following information on a form provided by the Commissioner:

(a) The applicant's name, address, telephone number and normal business hours;

(b) The name and telephone number of a person the Commissioner may contact for information concerning the applicant;

(c) The name of the medical director of the applicant and the state in which he is licensed to practice medicine or dentistry; and

(d) A summary of the plan for utilization review, including procedures for appealing determinations made through utilization review.

3. An agent who performs utilization review shall file with the Commissioner any material changes in the information provided pursuant to subsection 1 within 30 days after the change occurs.

4. The Commissioner shall not evaluate the plan submitted pursuant to paragraph (d) of subsection 2. The Commissioner shall make the plan available upon request and shall charge a reasonable fee for providing a copy of the plan.

5. Registration pursuant to this section must be renewed on or before March 1 of each year by providing the information specified in subsection 2 and paying a renewal fee of $250 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 20. NRS 683C.030 is hereby amended to read as follows:

683C.030 1. An application for a license to act as an insurance consultant must be submitted to the Commissioner on forms prescribed by the Commissioner and must be accompanied by the applicable license fee set forth in NRS 680B.010 , ~~[and]~~ an additional fee established by the Commissioner of not more than $15 which must be deposited in the Insurance Recovery Account created pursuant to NRS 679B.305 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* The license fee *set forth in NRS 680B.010* and the additional fee *established by the Commissioner of not more than $15* are not refundable. If the applicant is a natural person, the application must include the social security number of the applicant.

2. An applicant for an insurance consultant's license must successfully complete an examination and a course of instruction which the Commissioner shall establish by regulation.

3. Each license issued pursuant to this chapter is valid for 3 years from the date of issuance or until it is suspended, revoked or otherwise terminated ~~[.]~~ *, and each insurance consultant must pay, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 21. NRS 683C.035 is hereby amended to read as follows:

683C.035 1. The Commissioner shall prescribe the form of application by a natural person for a license as an insurance consultant. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years.

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license pursuant to NRS 683A.451.

(c) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, ~~[neither]~~ *none* of which may be refunded.

(d) Passed each examination required for the license and successfully completed each course of instruction which the Commissioner requires by regulation, unless he is a resident of another state and holds a similar license in that state.

2. A business organization must be licensed as an insurance consultant in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, ~~[neither]~~ *none* of which may be refunded; and

(b) Designated a natural person who is licensed as an insurance consultant in this State and who is affiliated with the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance.

3. The Commissioner may require any document reasonably necessary to verify information contained in an application.

4. A license issued pursuant to this chapter is valid for 3 years after the date of issuance or until it is suspended, revoked or otherwise terminated.

5. An insurance consultant may qualify for a license pursuant to this chapter in one or more of the lines of authority set forth in paragraphs (a) to (d), inclusive, of subsection 1 of NRS 683A.261.

Sec. 22. NRS 683C.040 is hereby amended to read as follows:

683C.040 1. A license may be renewed for additional 3-year periods by submitting to the Commissioner an application for renewal and:

(a) If the application is made:

(1) On or before the expiration date of the license, ~~[the]~~ *all* applicable renewal ~~[fee]~~ *fees* and an additional fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account; or

(2) Not more than 30 days after the expiration date of the license, ~~[the]~~ *all* applicable renewal ~~[fee]~~ *fees* plus any late fee required and an additional fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account;

(b) If the applicant is a natural person, the statement required pursuant to NRS 683C.043; and

(c) If the applicant is a resident, proof of the successful completion of appropriate courses of study required for renewal, as established by the Commissioner by regulation.

2. The fees specified in this section are not refundable.

Sec. 23. NRS 684A.090 is hereby amended to read as follows:

684A.090 1. The applicant for a license as an adjuster shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. As part of, or in connection with, the application, the applicant shall furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a firm or corporation, the application must also include the names of all firm members, all corporate officers and directors, and shall designate each individual who is to exercise the license powers. Each such member, officer, director and individual shall furnish information to the Commissioner as though applying for an individual license.

4. If the applicant is a nonresident of this state, the application must be accompanied by an appointment of the Commissioner as process agent and agreement to appear pursuant to NRS 684A.200.

5. The application must be accompanied by the applicable license fee as specified in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

6. No applicant for such a license may willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith. A violation of this subsection is a gross misdemeanor.

Sec. 24. NRS 684A.130 is hereby amended to read as follows:

684A.130 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner and submission of the statement required pursuant to NRS 684A.143 if the licensee is a natural person. The statement, if required, must be submitted and ~~[the fee]~~ *all applicable fees* must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by:

(a) A fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[;]~~ *, except for any fee required pursuant to section 3 of this act;* and

(b) If the person requesting renewal is a natural person, the statement required pursuant to NRS 684A.143.

3. This section does not apply to temporary licenses issued under NRS 684A.150.

Sec. 25. NRS 684A.140 is hereby amended to read as follows:

684A.140 1. Concurrently with an application for a license or for renewal of a license as an adjuster, the applicant or licensee must provide an appointment for each associate adjuster employed by him or to be employed by him contingent upon issuance of the license. Each person who desires to become licensed as an associate adjuster must submit an application to the Commissioner for such a license. The application must include the social security number of the applicant.

2. Upon payment of ~~[the appropriate fee,]~~ *all applicable fees,* the Commissioner shall issue and deliver to a licensed adjuster a license for each associate authorized by the State to act on behalf of the licensee. The Commissioner shall not issue a license as an associate adjuster to a person

who is licensed as a producer of insurance for property, casualty or surety or a surplus lines broker.

3. The license of an associate adjuster may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee.]~~ *fees.* His license terminates at the same time as the license of the employing adjuster unless, within 30 days after the termination of the license, the associate adjuster submits to the Commissioner ~~[the]~~ *all* applicable ~~[fee]~~ *fees* and a request to be employed by another employing adjuster. The Commissioner shall promptly terminate an associate adjuster's license upon written request therefor by the employing adjuster.

4. A person shall not act as or hold himself out in this State to be an associate adjuster unless he holds a current license as such issued to him by the Commissioner. A violation of this provision is a gross misdemeanor.

Sec. 26. NRS 684B.020 is hereby amended to read as follows:

684B.020 1. No person may act as a motor vehicle physical damage appraiser for motor vehicle physical damage claims on behalf of any insurance company or business organization engaged in the adjustment or appraisal of motor vehicle claims unless he has:

(a) Secured a license from the Commissioner.

(b) Paid ~~[the]~~ *all* applicable license ~~[fee.]~~ *fees.*

2. Any person who has been engaged in the business as a motor vehicle physical damage appraiser for a period of 2 consecutive years immediately before January 1, 1972, is entitled to a license upon application to the Commissioner without further qualification.

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

(a) A licensed insurance adjuster.

(b) An employee of any authorized insurer, motor club, motor vehicle dealer or automobile body repair shop.

4. A person who acts as a motor vehicle physical damage appraiser in this state without a license, unless exempt under subsection 3, is subject to an administrative fine of not more than $1,000 for each violation.

Sec. 27. NRS 684B.040 is hereby amended to read as follows:

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser must file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant must furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a business organization, the application must include the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be

licensed in an individual capacity must obtain a separate license in his own name.

4. The application must be accompanied by ~~[the]~~ *all* applicable license ~~[fee.]~~ *fees.* The Commissioner shall charge ~~[a]~~ separate ~~[fee]~~ *fees* for each person authorized to act for a business organization.

5. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive.

6. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

Sec. 28. NRS 684B.060 is hereby amended to read as follows:

684B.060 1. If the Commissioner finds that the application is complete and the applicant is otherwise eligible and qualified for the license as a motor vehicle physical damage appraiser, the Commissioner shall promptly issue the license. If the Commissioner refuses to issue the license he shall promptly notify the applicant in writing of the refusal, stating the grounds for the refusal.

2. If the license is refused, the Commissioner shall promptly refund to the applicant ~~[the]~~ *any refundable* license ~~[fee]~~ *fees* tendered with the application.

Sec. 29. NRS 684B.080 is hereby amended to read as follows:

684B.080 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner and submission of the statement required pursuant to NRS 684B.083 if the licensee is a natural person. The statement, if required, must be submitted and ~~[the fee]~~ *all applicable fees* must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the statement required pursuant to NRS 684B.083 if the person requesting renewal is a natural person.

Sec. 30. NRS 685A.070 is hereby amended to read as follows:

685A.070 1. A broker shall not knowingly place surplus lines insurance with an insurer which is unsound financially or ineligible pursuant to this section.

2. Except as otherwise provided in this section, an insurer is not eligible to accept surplus lines risks pursuant to this chapter unless it has surplus as to policyholders in an amount of not less than $15,000,000 and, if an alien insurer, unless it has and maintains in a bank or trust company which is a

member of the United States Federal Reserve System a trust fund established pursuant to terms that are reasonably adequate to protect all of its policyholders in the United States. Such a trust fund must not have an expiration date which is at any time less than 5 years in the future, on a continuing basis. In the case of:

(a) A single alien insurer, such a trust fund must not be less than the greater of $5,400,000 or 30 percent of the gross liabilities of the alien insurer for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance, not to exceed $60,000,000, to be determined annually on the basis of accounting practices and procedures that are substantially equivalent to the accounting practices and procedures applicable in this State as of December 31 of the year immediately preceding the date of the determination where:

(1) The liabilities are maintained in an irrevocable trust account in a qualified financial institution in the United States, on behalf of policyholders in the United States, consisting of cash, securities, letters of credit or any other investments of substantially the same character and quality as investments that are eligible investments pursuant to chapter 682A of NRS for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this State. The trust fund, which must be included in any calculation of capital and surplus or its equivalent, must comply with the requirements set forth in the Standard Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners;

(2) The alien insurer may request approval by the Commissioner to use the trust fund to pay any valid claim against a surplus line if the balance of the trust fund is not, during any period, less than $5,400,000 or 30 percent of the alien insurer's current gross liabilities for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance; and

(3) In calculating the amount of the trust fund required by this subsection, credit must be given for any deposits for any surplus lines that are separately required and maintained within a state or territory of the United States, not to exceed the amount of the alien insurer's loss and loss adjustment reserves maintained in that state or territory.

(b) A group of insurers which includes individual unincorporated insurers, such a trust fund must not be less than $100,000,000.

(c) A group of incorporated insurers under common administration, such a trust fund must not be less than $100,000,000. Each insurer within the group must individually maintain capital and surplus of not less than $25,000,000. The group of incorporated insurers must:

(1) Operate under the supervision of the Department of Trade and Industry of the United Kingdom;

(2) Possess aggregate policyholders surplus of $10,000,000,000, which must consist of money in trust in an amount not less than the assuming insurers' liabilities attributable to insurance written in the United States; and

(3) Maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

(d) An insurance exchange created by the laws of a state, the insurance exchange shall have and maintain a trust fund in an amount of not less than $75,000,000 or have a surplus as to policyholders in an amount of not less than $75,000,000. If an insurance exchange maintains money for the protection of all policyholders, each syndicate shall maintain minimum capital and surplus of not less than $15,000,000 and must qualify separately to be eligible for the acceptance of surplus lines risks pursuant to this chapter. ➥ The Commissioner may require larger trust funds or surplus as to policyholders than those set forth in this section if, in his judgment, the volume of business being transacted or proposed to be transacted warrants larger amounts.

3. An insurer is not eligible to write surplus lines of insurance unless it has established a reputation for financial integrity and satisfactory practices in underwriting and handling claims. In addition, a foreign insurer must be authorized in the state of its domicile to write the kinds of insurance which it intends to write in Nevada.

4. The Commissioner may from time to time compile or approve a list of all surplus lines insurers deemed by him to be eligible currently, and may mail a copy of the list to each broker at his office last of record with the Commissioner. To be placed on the list, a surplus lines insurer must file an application with the Commissioner. The application must be accompanied by a nonrefundable fee of $2,450 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act. To remain on the list, a surplus line insurer must pay, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* This subsection does not require the Commissioner to determine the actual financial condition or claims practices of any unauthorized insurer. The status of eligibility, if granted by the Commissioner, indicates only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by him.

Sec. 31. NRS 685A.120 is hereby amended to read as follows:

685A.120 1. No person may act as, hold himself out as or be a surplus lines broker with respect to subjects of insurance resident, located or to be performed in this State or elsewhere unless he is licensed as such by the Commissioner pursuant to this chapter.

2. Any person who has been licensed by this State as a producer of insurance for general lines for at least 6 months, or has been licensed in

another state as a surplus lines broker and continues to be licensed in that state, and who is deemed by the Commissioner to be competent and trustworthy with respect to the handling of surplus lines may be licensed as a surplus lines broker upon:

(a) Application for a license and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for a license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305;

(b) Submitting the statement required pursuant to NRS 685A.127; and

(c) Passing any examination prescribed by the Commissioner on the subject of surplus lines.

3. An application for a license must be submitted to the Commissioner on a form designated and furnished by him. The application must include the social security number of the applicant.

4. A license issued pursuant to this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. The license may be renewed upon submission of the statement required pursuant to NRS 685A.127 and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305 to the Commissioner on or before the last day of the month in which the license is renewable.

5. A license which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by:

(a) The statement required pursuant to NRS 685A.127;

(b) ~~[The]~~ *All* applicable ~~[fee]~~ *fees* for renewal;

(c) A penalty in an amount that is equal to 50 percent of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal ~~[;]~~ *, except for any fee required pursuant to section 3 of this act;* and

(d) A fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305.

Sec. 32. NRS 686A.360 is hereby amended to read as follows:

686A.360 1. An application for a license to engage in the business of a company must be filed with the Commissioner on a form prescribed by him and must include:

(a) A nonrefundable fee for application and for investigation of the applicant of $500 ~~[;]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act;*

(b) A surety bond payable to the State of Nevada in the amount of $50,000, executed by a surety company which is authorized to do business in Nevada;

(c) A current certified financial statement or another financial statement if individually approved by the Commissioner;

(d) An appointment of the Commissioner and his successors in office as the applicant's attorney to receive service of process; and

(e) If the applicant is a corporation, a copy of its articles of incorporation.

2. The applicant shall provide the Commissioner with any material change concerning information contained in the application within 10 days after the change occurs.

Sec. 33. NRS 686A.380 is hereby amended to read as follows:

686A.380 1. A company must renew its license on or before March 1 of each year. An application for renewal must be submitted on a form prescribed by the Commissioner and must be accompanied by:

(a) A financial statement for the preceding year; and

(b) A fee of $500 , ~~[and]~~ any penalty imposed pursuant to subsection 2 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. The Commissioner may grant an extension allowing a company to file an application for renewal after March 1 if the company shows that for reasons beyond its control it cannot apply before that date. If a company which has not been granted an extension files its application for renewal after March 1, the company shall pay a penalty of $25 for each day the application is late.

Sec. 34. NRS 686B.140 is hereby amended to read as follows:

686B.140 1. A rate service organization or an advisory organization applying for a license as required by NRS 686B.130 must include with its application:

(a) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its bylaws, plan of operation and any other rules or regulations governing the conduct of its business;

(b) A list of its membership and subscribers;

(c) The name and address of one or more residents of this State upon whom notices, process affecting it or orders of the Commissioner may be served;

(d) A statement showing its technical qualifications for acting in the capacity for which it seeks a license;

(e) If the applicant is a natural person who wishes to obtain a license as a rate service organization, the statement required pursuant to NRS 686B.143;

(f) Any other relevant information and documents that the Commissioner may require; and

(g) ~~[The]~~ *All* applicable ~~[fee.]~~ *fees.*

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. Every organization which has applied for a license pursuant to subsection 1 shall thereafter promptly notify the Commissioner of every material change in the facts or in the documents on which its application was based.

4. If the Commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy and technically qualified to provide the services proposed, and that all requirements of law are met, he

shall issue a license specifying the authorized activity of the applicant. He shall not issue a license if the proposed activity would tend to create a monopoly or to lessen or destroy competition in prices.

5. A license issued pursuant to this section continues in effect until the licensee leaves the State or until the license is suspended, revoked or otherwise terminated. A license may be renewed upon:

(a) If the licensee is a natural person who has been issued a license as a rate service organization, submission of the statement required pursuant to NRS 686B.143 and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day on which the license is renewable; or

(b) If the licensee is an advisory organization or a rate service organization that is not a natural person, payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day on which the license is renewable.

6. A license which is not renewed annually expires on March 1. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by:

(a) If the licensee is a natural person who has been issued a license as a rate service organization, the statement required pursuant to NRS 686B.143 and a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act;* or

(b) If the licensee is a rate service organization that is not a natural person or is an advisory organization, a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

7. Any amendment to a document filed pursuant to paragraph (a) of subsection 1 must be filed at least 30 days before it becomes effective. Failure to comply with this subsection is a ground for revocation of the license granted pursuant to subsection 4.

Sec. 35. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 36 ~~[, 37 and 38,]~~ *to 38.5,* inclusive, of this act.

Sec. 36. *An insurer or other organization providing health coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C, 695D or 695F of NRS shall comply with the provisions of the Genetic Information Nondiscrimination Act of 2008, Public Law 110-233, and any federal regulations issued pursuant thereto.*

Sec. 37. *An insurer or other organization providing health coverage pursuant to chapter 689B, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto.*

Sec. 38. *An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B, 695C or 695F of NRS shall*

*comply with the provisions of Michelle's Law, Public Law 110-381, and any federal regulations issued pursuant thereto.*

*Sec. 38.5.* *If a policy of health insurance issued pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C or 695G includes coverage for a prescription drug that is necessary for an insured to prevent the rejection of a transplanted organ, the insurer must notify the insured and, if known, the physician of the insured who prescribed the drug at least 30 days before a change in the formulary of the insurer within the plan year which affects that prescription becomes effective.*

Sec. 39. NRS 688C.190 is hereby amended to read as follows:

688C.190 1. Except as otherwise provided in NRS 688C.215, a person shall not, without first obtaining a license from the Commissioner, operate in or from this State as a provider or broker of viatical settlements.

2. Application for a license must be made to the Commissioner on a form prescribed by him, accompanied by ~~[the prescribed fee.]~~ *all applicable fees.* A license may be renewed from year to year on its anniversary by payment of ~~[the prescribed fee.]~~ *all applicable fees.* The license expires if ~~[the fee is]~~ *all applicable fees are* not paid by that date.

3. An applicant shall provide information on forms required by the Commissioner, who may at any time require the applicant to disclose the identity of all stockholders, partners, members, officers and employees. The Commissioner may refuse to issue a license to an organization if he is not satisfied that a stockholder, partner, member or officer who may materially influence the applicant's conduct satisfies the requirements of this chapter.

4. A license issued to an organization authorizes all partners, members, officers and designated employees to act as providers or brokers of viatical settlements. Those persons must be named in the application or a supplement to it.

Sec. 40. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of ~~[the fee,]~~ *all applicable fees,* the Commissioner shall investigate the applicant, and issue a license if he finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies him in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements, has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable

written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

Sec. 41. NRS 689.175 is hereby amended to read as follows:

689.175 1. The proposed seller, or the appropriate corporate officer of the proposed seller, shall apply in writing to the Commissioner for a seller's certificate of authority, showing:

(a) The proposed seller's name and address, and his occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner;

(e) A complete set of his fingerprints and written permission authorizing the Commissioner 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;

(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and

(g) The applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 42. NRS 689.205 is hereby amended to read as follows:

689.205 1. Each seller's certificate of authority issued pursuant to NRS 689.150 to 689.375, inclusive, expires at midnight on April 30 of the third year following its date of issuance or renewal.

2. The Commissioner shall renew a certificate of authority upon receiving a written request for renewal from the seller, accompanied by ~~[the]~~

*all* applicable ~~[fee]~~ *fees* for renewal, which ~~[is]~~ *are* not refundable, if he finds that the seller is, at that time, in compliance with all applicable provisions of NRS 689.150 to 689.375, inclusive.

3. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the certificate if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

Sec. 43. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner 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.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

Sec. 44. NRS 689.255 is hereby amended to read as follows:

689.255 1. Each agent's license issued pursuant to NRS 689.150 to 689.375, inclusive, continues in force for 3 years unless it is suspended, revoked or otherwise terminated.

2. An agent's license may be renewed at the request of the holder of a valid seller's certificate of authority, upon filing a written request for renewal

accompanied by ~~[the required fee]~~ *all applicable fees* for renewal and the statement required pursuant to NRS 689.258. ~~[The fee]~~ *All applicable fees* for renewal ~~[is]~~ *are* nonrefundable.

3. Any license not so renewed expires at midnight on the last day of the month specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the statement required pursuant to NRS 689.258.

4. An agent's license is valid only while the agent is employed by a holder of a valid seller's certificate of authority.

Sec. 45. NRS 689.490 is hereby amended to read as follows:

689.490 1. The proposed seller, or the appropriate corporate officer of the seller, shall apply in writing to the Commissioner for a seller's permit, showing:

(a) The proposed seller's name and address and his occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner;

(e) A complete set of his fingerprints and written permission authorizing the Commissioner 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;

(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and

(g) The applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 46. NRS 689.505 is hereby amended to read as follows:

689.505 1. Each seller's permit issued pursuant to NRS 689.450 to 689.595, inclusive, continues in effect for 3 years unless it is suspended, revoked or otherwise terminated.

2. The Commissioner shall renew a seller's permit upon receiving a written request for renewal from the seller, accompanied by ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal, which ~~[is]~~ *are* not refundable, if he finds that the seller is, at that time, in compliance with all applicable provisions of NRS 689.450 to 689.595, inclusive.

3. A permit which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the permit if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

Sec. 47. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner 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.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

Sec. 48. NRS 689.530 is hereby amended to read as follows:

689.530 1. Each agent's license issued pursuant to NRS 689.450 to 689.595, inclusive, continues in effect for 3 years unless it is suspended, revoked or otherwise terminated.

2. An agent's license may be renewed, unless it has been suspended or revoked, at the request of the holder of a valid seller's permit upon filing a written request for renewal accompanied by ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal and the statement required pursuant to NRS 689.258. ~~[The fee]~~ *All applicable fees* for renewal ~~[is]~~ *are* not refundable.

3. The Commissioner may accept a request for renewal which is received by him within 30 days after the expiration of the license if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the statement required pursuant to NRS 689.258.

4. An agent's license is valid only while the agent is employed by a holder of a valid seller's permit.

Sec. 49. ~~[Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 2, if a policy of health insurance includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the insurer must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision;*~~

~~*(b) The drug was covered by the policy of health insurance before the revision; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in a policy of health insurance is revised, the insurer must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the insurer has notified the insured of any increase.*~~

~~*3. A policy of health insurance subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.]~~* *(Deleted by amendment.)*

Sec. 50. ~~[NRS 689A.04045 is hereby amended to read as follows:~~

~~689A.04045 1. Except as otherwise provided in this section, a policy of health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the~~

~~drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive;~~ [or]

~~(c) Require any coverage for a drug after the term of the policy~~ [.] ~~; or~~

~~*(d) Apply if the prescription drug is covered under the provisions of section 49 of this act.*~~

~~3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.~~] *(Deleted by amendment.)*

Sec. 51. ~~[NRS 689A.330 is hereby amended to read as follows:~~

~~689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive~~ [.] ~~, *and section 49 of this act.*~~] *(Deleted by amendment.)*

Sec. 52. ~~[Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 2, if a policy of group health insurance includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the insurer must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision;*~~

~~*(b) The drug was covered by the policy of group health insurance before the revision; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in a policy of group health insurance is revised, the insurer must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the insurer has notified the insured of any increase.*~~

~~*3. A policy of group health insurance subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.]*~~ *(Deleted by amendment.)*

Sec. 53. NRS 689B.030 is hereby amended to read as follows:

689B.030 Each group health insurance policy must contain in substance the following provisions:

1. A provision that, in the absence of fraud, all statements made by applicants or the policyholders or by an insured person are representations and not warranties, and that no statement made for the purpose of effecting insurance voids the insurance or reduces its benefits unless the statement is contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to him or his beneficiary.

2. A provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group a statement in summary form of the essential features of the insurance coverage of that employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one statement need be issued for each family.

3. A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

4. A provision for benefits for expense arising from care at home or health supportive services if the care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

5. ~~[A provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 689B.036.~~

~~6.]~~ A provision for benefits for expenses arising from hospice care.

Sec. 54. ~~[NRS 689B.0368 is hereby amended to read as follows:~~

~~689B.0368 1. Except as otherwise provided in this section, a policy of group health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive;~~ [or]

~~(c) Require any coverage for a drug after the term of the policy~~ [.] ~~; or~~

~~*(d) Apply if the prescription drug is covered under the provisions of section 52 of this act.*~~

~~3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.~~] *(Deleted by amendment.)*

Sec. 55. Chapter 689C of NRS is hereby amended by adding thereto the provisions set forth as sections 56 to 59, inclusive, of this act.

Sec. 56. *Each group health insurance policy must contain in substance a provision for benefits payable for expenses incurred for the treatment of abuse of alcohol or drugs, as provided in section 58 of this act.*

Sec. 57. *1. Notwithstanding any provisions of this title to the contrary, a policy of group health insurance delivered or issued for delivery in this State pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.*

*2. The coverage required by this section:*

*(a) Must provide:*

*(1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and*

*(2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured. In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.*

*(b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.*

*3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out-of-pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of group health insurance.*

*4. The provisions of this section do not apply to a policy of group health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.*

*5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.*

*6. The provisions of this section do not:*

*(a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.*

*(b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this State with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.*

*7. A policy of group health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 3, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.*

*8. As used in this section, "severe mental illness" means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association:*

*(a) Schizophrenia.*

*(b) Schizoaffective disorder.*

*(c) Bipolar disorder.*

*(d) Major depressive disorders.*

*(e) Panic disorder.*

*(f) Obsessive-compulsive disorder.*

Sec. 58. *1. The benefits provided by a group policy for health insurance, as required by section 56 of this act, for the treatment of abuse of alcohol or drugs must consist of:*

*(a) Treatment for withdrawal from the physiological effects of alcohol or drugs, with a minimum benefit of $1,500 per calendar year.*

*(b) Treatment for a patient admitted to a facility, with a minimum benefit of $9,000 per calendar year.*

*(c) Counseling for a person, group or family who is not admitted to a facility, with a minimum benefit of $2,500 per calendar year.*

*2. These benefits must be paid in the same manner as benefits for any other illness covered by a similar policy are paid.*

*3. The insured person is entitled to these benefits if treatment is received in any:*

*(a) Facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services.*

*(b) Hospital or other medical facility or facility for the dependent which is licensed by the Health Division of the Department of Health and Human Services, is accredited by the Joint Commission on Accreditation of Healthcare Organizations and provides a program for the treatment of abuse of alcohol or drugs as part of its accredited activities.*

Sec. 59. ~~[*1. Except as otherwise provided in subsection 2, if a health benefit plan includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the carrier must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision;*~~

~~*(b) The drug was covered by the health benefit plan before the revision; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in a health benefit plan is revised, the carrier must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the carrier has notified the insured of any increase.*~~

~~*3. A health benefit plan subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.]*~~ *(Deleted by amendment.)*

Sec. 60. ~~[NRS 689C.156 is hereby amended to read as follows:~~

~~689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. The health insurance plans marketed pursuant to this section by the carrier must include, without limitation, a basic health benefit plan and a standard health benefit plan. A carrier shall be~~

~~deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.~~

~~2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, *and section 59 of this act*, and 689C.610 to 689C.980, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.~~

~~3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.]~~ *(Deleted by amendment.)*

Sec. 61. ~~[NRS 689C.168 is hereby amended to read as follows:~~

~~689C.168 1. Except as otherwise provided in this section, a health benefit plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the carrier for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The carrier from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive;~~ [or]

~~(c) Require any coverage for a drug after the term of the plan~~ [.] ~~*; or*~~

~~*(d) Apply if the prescription drug is covered under the provisions of section 59 of this act.*~~

~~3. Any provision of a health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.]~~ *(Deleted by amendment.)*

Sec. 62. NRS 689C.425 is hereby amended to read as follows:

689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, to the extent applicable and not in conflict with the express provisions of *section 38.5 of this act and* NRS 689C.360 to 689C.600, inclusive. ~~*[, and section 59 of this act.]*~~

Sec. 63. NRS 690C.160 is hereby amended to read as follows:

690C.160 1. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the Commissioner:

(a) A registration application on a form prescribed by the Commissioner;

(b) Proof that he has complied with the requirements for security set forth in NRS 690C.170;

(c) A copy of each type of service contract he proposes to issue, sell or offer for sale;

(d) The name, address and telephone number of each administrator with whom the provider intends to contract; and

(e) A fee of $1,000 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. In addition to the fee required by subsection 1, a provider must pay a fee of $25 for each type of service contract he files with the Commissioner.

3. A certificate of registration is valid for 1 year after the date the Commissioner issues the certificate to the provider. A provider may renew his certificate of registration if, before the certificate expires, he submits to the Commissioner an application on a form prescribed by the Commissioner , ~~[and]~~ a fee of $1,000 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 64. NRS 692A.103 is hereby amended to read as follows:

692A.103 1. A person who wishes to obtain a license as an escrow officer must:

(a) File a written application in the Office of the Commissioner;

(b) Except as otherwise provided in subsection 3, demonstrate competency in matters relating to escrows by:

(1) Having at least 1 year of recent experience with respect to escrows of a sufficient nature to allow him to fulfill the responsibilities of an escrow officer; or

(2) Passing a written examination concerning escrows as prescribed by the Commissioner;

(c) Submit the name and business address of the title agent who will supervise the escrow officer;

(d) Submit the statement required pursuant to NRS 692A.1033; and

(e) Pay the fees required by NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. The Commissioner shall issue a license as an escrow officer to any person who satisfies the requirements of subsection 1.

3. The Commissioner may waive the requirements of paragraph (b) of subsection 1 if the applicant submits with his application satisfactory proof that he, in good standing, currently holds a license, or held a license within 1 year before the date he submits his application, which was issued pursuant to the provisions of NRS 645A.020.

4. A license issued pursuant to this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. The license may be renewed upon submission of the statement required pursuant to NRS 692A.1033 and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day of the month in which the license is renewable.

5. A license which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by the statement required pursuant to NRS 692A.1033 and a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

6. The Commissioner shall adopt regulations to carry out the provisions of this section.

Sec. 65. NRS 694C.230 is hereby amended to read as follows:

694C.230 1. If the Commissioner determines that the documents and statements filed by the captive insurer satisfy the requirements for licensure, the Commissioner shall issue a license to the captive insurer. The license may be renewed annually upon the satisfaction of all requirements imposed by the Commissioner and payment of ~~[the]~~ *all applicable* renewal ~~[fee.]~~ *fees.*

2. A captive insurer must pay a fee of $300 for the issuance of a license and, on or before March 1 of each year, an annual fee of $300 *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act* for the renewal of a license.

Sec. 66. NRS 694C.460 is hereby amended to read as follows:

694C.460 1. There is hereby created in the State General Fund an Account for the Regulation and Supervision of Captive Insurers. Money in the Account must be used only to carry out the provisions of this chapter. Except as otherwise provided in NRS 694C.450 ~~[,]~~ *and section 3 of this act,* all fees and assessments received by the Commissioner or Division pursuant to this chapter must be credited to the Account. Not more than 2 percent of the tax collected and deposited in the Account pursuant to NRS 694C.450, may, upon application by the Division or an agency for economic development to, and with the approval of, the Interim Finance Committee, be

transferred to an agency for economic development to be used by that agency to promote the industry of captive insurance in this State.

2. Except as otherwise provided in this section, all payments from the Account for the maintenance of staff and associated expenses, including contractual services, as necessary, must be disbursed from the State Treasury only upon warrants issued by the State Controller, after receipt of proper documentation of the services rendered and expenses incurred.

3. At the end of each fiscal year, that portion of the balance in the Account which exceeds $500,000 must be transferred to the State General Fund.

4. The State Controller may anticipate receipts to the Account and issue warrants based thereon.

Sec. 67. ~~[Chapter 695A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 2, if a benefit contract includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the society must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision;*~~

~~*(b) The drug was covered by the benefit contract before the revision; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in a benefit contract is revised, the society must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the society has notified the insured of any increase.*~~

~~*3. A benefit contract subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the benefit contract or the renewal which is in conflict with this section is void.]~~* *(Deleted by amendment.)*

Sec. 68. NRS 695A.080 is hereby amended to read as follows:

695A.080 1. The Commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all applicable provisions of law, he shall issue to the society a certificate of authority indicating that the society may transact business pursuant to the provisions of this chapter.

2. The certificate of authority is prima facie evidence of the existence of the society on the date of the certificate.

3. The Commissioner shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

4. For the issuance or renewal of a certificate of authority, a society must pay to the Commissioner:

(a) A fee of $250 if the number of outstanding benefit contracts within Nevada of the society is 600 or less;

(b) A fee of $500 if the number of outstanding benefit contracts within Nevada of the society is more than 600 but less than 1,200; ~~[and]~~

(c) A fee of $2,450 if the number of outstanding benefit contracts within Nevada of the society is 1,200 or more ~~[.]~~ *; and*

*(d) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

➥ Each such certificate or renewal expires on March 1 following its issuance.

5. If a society properly applies for the renewal of its certificate of authority but does not receive approval of its application by March 1, it may continue to transact business pursuant to this chapter unless it receives notice that the application for renewal is specifically denied.

6. A certified copy or duplicate of a certificate of authority is prima facie evidence that the society may lawfully transact business in this state pursuant to the provisions of this chapter during the period stated on the license.

Sec. 69. ~~[NRS 695A.184 is hereby amended to read as follows:~~

~~695A.184 1. Except as otherwise provided in this section, a benefit contract which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the society for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The society from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the benefit contract that is medically appropriate for the insured; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; [or]~~

~~(c) Require any coverage for a drug after the term of the benefit contract [.]; or~~

~~*(d) Apply if the prescription drug is covered under the provisions of section 67 of this act.*~~

~~3. Any provision of a benefit contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.]~~ *(Deleted by amendment.)*

Sec. 70. ~~[Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 2, if a contract for hospital or medical services includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the insurer must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision;*~~

~~*(b) The drug was covered by the contract for hospital or medical services before the revision; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in a contract for hospital or medical services is revised, the insurer must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the insurer has notified the insured of any increase.*~~

~~*3. A contract for hospital or medical services subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the contract or the renewal which is in conflict with this section is void.]*~~ *(Deleted by amendment.)*

Sec. 71. NRS 695B.110 is hereby amended to read as follows:

695B.110 A corporation shall not establish, maintain or operate a nonprofit service plan as authorized by the provisions of this chapter unless it has:

1. Procured a certificate of authority from the Commissioner for the establishment, maintenance and operation of the plan.

2. Paid to the Commissioner the fees required of insurers by NRS 680B.010 for:

(a) The filing of the initial application;

(b) The issuance of the certificate of authority;

(c) Each annual continuation of the certificate of authority; and

(d) The filing of each annual report.

*3. Paid, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 72. NRS 695B.130 is hereby amended to read as follows:

695B.130 1. An application for a certificate of authority must be filed with the Commissioner in writing by the corporation for medical service which is applying for the certificate on forms furnished or accepted by the Commissioner. The application must set forth such information concerning the applicant and its qualifications and in other respects as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the applicant's charter or articles of incorporation, certified by the public officer with whom the original is required to be filed in its state of domicile;

(b) A copy of the applicant's bylaws, certified by the corporate secretary;

(c) A copy of each contract the applicant has made or proposed to make with hospitals, or physicians or dentists in this state;

(d) A copy of each service contract proposed to be issued to its subscribers in this state;

(e) The schedule of the rates, dues, fees or other periodical charges proposed to be charged for such service contracts; and

(f) ~~[The]~~ *All* applicable ~~[fee]~~ *fees* for an initial application and the issuance of a certificate of authority.

3. If upon completion of the application the Commissioner determines that the applicant is fully qualified and entitled to a certificate of authority under this chapter, he shall promptly issue a certificate of authority to the applicant. If the Commissioner refuses to issue the certificate of authority, he shall give the applicant written notice of the refusal setting forth the grounds therefor.

Sec. 73. NRS 695B.135 is hereby amended to read as follows:

695B.135 1. A certificate of authority issued pursuant to this chapter expires on March 1 of the year following its date of issuance or renewal.

2. To renew a certificate of authority a corporation for medical service must:

(a) File a written request for renewal with the Commissioner; and

(b) Pay ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal for a certificate of authority.

3. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the certificate if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

Sec. 74. NRS 695B.160 is hereby amended to read as follows:

695B.160 1. Every corporation subject to the provisions of this chapter shall annually:

(a) On or before March 1, file in the Office of the Commissioner a statement verified by at least two of the principal officers of the corporation, showing its condition and affairs as of December 31 of the preceding

calendar year. The statement must be in the form required by the Commissioner and must contain statements relative to the matters required to be established as a condition precedent to maintaining or operating a nonprofit hospital, medical or dental service plan and to other matters which the Commissioner may prescribe.

(b) Pay ~~[the annual fee]~~ *all applicable fees* for the renewal of a certificate of authority and the fee for the filing of an annual statement.

2. The Commissioner may examine, as often as he deems it desirable, the affairs of every corporation subject to the provisions of this chapter. He shall, if practicable, examine each such corporation at least once in every 3 years, and in any event, at least once in every 5 years, as to its condition, fulfillment of its contractual obligations and compliance with applicable laws. For examining the financial condition of every such corporation the Commissioner shall collect the actual expenses of the examination. Such expenses must be paid by the corporation. The Commissioner shall refuse to issue a certificate of authority or shall revoke his certificate of authority issued to any corporation which neglects or refuses to pay such expenses.

Sec. 75. NRS 695B.180 is hereby amended to read as follows:

695B.180 A contract for hospital, medical or dental services must not be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

1. Unless the entire consideration therefor is expressed in the contract.

2. Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution.

3. If the contract purports to entitle more than one person to benefits or services, except for family contracts issued under NRS 695B.190, group contracts issued under NRS 695B.200, and blanket contracts issued under NRS 695B.220.

4. Unless every printed portion and any endorsement or attached papers are plainly printed in type of which the face is not smaller than 10 points.

5. Except for group contracts and blanket contracts issued under NRS 695B.220, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply.

6. Except for group contracts and blanket contracts issued under NRS 695B.230, unless, if any portion of the contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, that portion is printed in boldface type and with greater prominence than any other text of the contract.

7. If the contract contains any provisions purporting to make any portion of the charter, constitution or bylaws of a nonprofit corporation a part of the contract unless that portion is set forth in full in the contract.

8. ~~[Unless the contract, if it is a group contract, contains a provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 695B.194.~~

~~9.]~~ Unless the contract provides benefits for expenses incurred for hospice care.

~~[10.]~~ *9.* Unless the contract for service in a hospital contains in blackface type, not less than 10 points, the following provisions:

This contract does not restrict or interfere with the right of any person entitled to service and care in a hospital to select the contracting hospital or to make a free choice of his attending physician, who must be the holder of a valid and unrevoked physician's license and a member of, or acceptable to, the attending staff and board of directors of the hospital in which the services are to be provided.

Sec. 76. ~~[NRS 695B.1905 is hereby amended to read as follows:~~

~~695B.1905 1. Except as otherwise provided in this section, a contract for hospital or medical services which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the contract that is medically appropriate for the insured; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive;~~ [or]

~~(c) Require any coverage for a drug after the term of the contract~~ [.] ~~; or~~

~~*(d) Apply if the prescription drugs are covered under the provisions of section 70 of this act.*~~

~~3. Any provision of a contract for hospital or medical services subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.]~~

*(Deleted by amendment.)*

Sec. 77. NRS 695B.290 is hereby amended to read as follows:

695B.290 Any agent of a nonprofit hospital or medical or dental service corporation who acts as such in the solicitation, negotiation, procurement or making of a hospital service or medical or dental care contract shall be qualified, examined and licensed in the same manner and pay the same fees as provided for health insurance agents in NRS 680B.010 (fee schedule) , ~~[and]~~ chapter 683A of NRS ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 78. ~~[Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 2, if an evidence of coverage includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the health maintenance organization must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision;*~~

~~*(b) The drug was covered by the evidence of coverage before the revision; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in an evidence of coverage is revised, the health maintenance organization must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the health maintenance organization has notified the insured of any increase.*~~

~~*3. An evidence of coverage subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.]*~~ *(Deleted by amendment.)*

Sec. 79. ~~[NRS 695C.050 is hereby amended to read as follows:~~

~~695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.~~

~~2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.~~

~~3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.~~

~~4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, *and section 78 of this act*, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.~~

~~5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.]~~ *(Deleted by amendment.)*

Sec. 80. NRS 695C.170 is hereby amended to read as follows:

695C.170 1. Every enrollee residing in this state is entitled to evidence of coverage under a health care plan. If the enrollee obtains coverage under a health care plan through an insurance policy, whether by option or otherwise, the insurer shall issue the evidence of coverage. Otherwise, the health maintenance organization shall issue the evidence of coverage.

2. Evidence of coverage or amendment thereto must not be issued or delivered to any person in this state until a copy of the form of the evidence of coverage or amendment thereto has been filed with and approved by the Commissioner.

3. An evidence of coverage:

(a) Must not contain any provisions or statements which are unjust, unfair, inequitable, misleading, deceptive, which encourage misrepresentation or which are untrue, misleading or deceptive as defined in subsection 1 of NRS 695C.300; and

(b) Must contain a clear and complete statement, if a contract, or a reasonably complete summary if a certificate, of:

(1) The health care services and the insurance or other benefits, if any, to which the enrollee is entitled under the health care plan;

(2) Any limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any deductible or copayment feature;

(3) Where and in what manner the services may be obtained; *and*

(4) The total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay . ~~[; and~~

~~(5) A provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 695C.174.]~~

➥ Any subsequent change may be evidenced in a separate document issued to the enrollee.

4. A copy of the form of the evidence of coverage to be used in this state and any amendment thereto is subject to the requirements for filing and approval of subsection 2 unless it is subject to the jurisdiction of the

Commissioner under the laws governing health insurance, in which event the provisions for filing and approval of those laws apply. To the extent that such provisions do not apply to the requirements in subsection 3, such provisions are amended to incorporate the requirements of subsection 3 in approving or disapproving an evidence of coverage required by subsection 2.

Sec. 81. ~~[NRS 695C.1734 is hereby amended to read as follows:~~

~~695C.1734 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the health maintenance organization or insurer for a medical condition of an enrollee and the enrollee's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The health maintenance organization or insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; [or]~~

~~(c) Require any coverage for a drug after the term of the evidence of coverage [.] ; or~~

~~*(d) Apply if the prescription drug is covered under the provisions of section 78 of this act.*~~

~~3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.]~~ *(Deleted by amendment.)*

Sec. 82. NRS 695C.230 is hereby amended to read as follows:

695C.230 1. Every health maintenance organization subject to this chapter shall pay to the Commissioner the following fees:

(a) For filing an application for a certificate of authority, $2,450.

(b) For issuance of a certificate of authority, $250.

(c) For an amendment to a certificate of authority, $100.

(d) For the renewal of a certificate of authority, $2,450.

(e) For filing each annual report, $25.

*(f) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. At the time of filing the annual report the health maintenance organization shall forward to the department of taxation the tax and any penalty for nonpayment or delinquent payment of the tax in accordance with the provisions of chapter 680B of NRS.

3. All fees paid pursuant to this section shall be deemed earned when paid and may not be refunded.

Sec. 83. NRS 695D.130 is hereby amended to read as follows:

695D.130 The Commissioner shall issue a certificate of authority to an organization for dental care after the organization has paid an application fee of $2,450 *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act,* and the Commissioner is satisfied that:

1. The persons responsible for operating the organization are competent, trustworthy, have not been convicted of a felony and have good reputations.

2. The plan for dental care includes care which is appropriate for the plan and the plan is appropriate for providing that care.

3. The organization is financially responsible and may reasonably be expected to meet its obligations to its members. To determine financial responsibility the Commissioner may consider:

(a) The organization's arrangements for dental care and the schedule of charges to be used;

(b) The agreements with an insurer, government or any other organizations for ensuring payment for the dental care;

(c) Any provisions for alternative coverage if the plan for dental care is discontinued; and

(d) The agreements with the dentists providing dental care to the organization's members.

4. The appropriate deposits or bonds have been filed with the Commissioner by the organization and its officers.

Sec. 84. NRS 695D.150 is hereby amended to read as follows:

695D.150 A certificate of authority expires at midnight on March 1 following the date it was issued or previously renewed. The Commissioner shall renew the certificate of any organization for dental care which:

1. Continues to comply with the provisions of this chapter; and

2. Pays the fee for renewal of $2,450 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 85. NRS 695E.130 is hereby amended to read as follows:

695E.130 1. Except as otherwise provided in chapter 685A of NRS, a purchasing group shall not purchase insurance from an unauthorized insurer or a risk retention group that is not chartered or registered in this state.

2. A purchasing group is exempt from any law of this state that relates to the formation or prohibition of groups for the purchase of insurance, and any law that would discriminate against a purchasing group or its members.

3. An insurer is exempt from any law of this state that prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experiences not afforded to other persons with respect to rates, policy forms, coverages or other matters.

4. ~~[A purchasing group and its insurer are exempt from any law of this state which requires that an insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent residing in this state.~~

~~5.]~~ A purchasing group that obtains liability insurance from a surplus lines insurer or a risk retention group shall inform each of the members of the purchasing group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

~~[6.]~~ *5.* No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, but the coverage may provide for a deductible or self-insured retention applicable to individual members of the group.

~~[7.]~~ *6.* Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Sec. 86. ~~[Chapter 695F of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 2, if an evidence of coverage includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the prepaid limited health service organization must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision;*~~

~~*(b) The drug was covered by the evidence of coverage before the revision; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in an evidence of coverage is revised, the prepaid limited health service organization must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the organization has notified the insured of any increase.*~~

~~*3. An evidence of coverage subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.]~~* *(Deleted by amendment.)*

Sec. 87. NRS 695F.110 is hereby amended to read as follows:

695F.110 An application for a certificate of authority to operate a prepaid limited health service organization must be filed with the Commissioner on a form prescribed by him. The application must be verified by an officer or authorized representative of the applicant and include:

1. A copy of the applicant's basic organizational document, including any articles of incorporation, articles of association, partnership agreement, trust agreement or any other applicable document or amendment thereto.

2. A copy of the bylaws, rules and regulations or similar documents, if any, which regulate the conduct of the internal affairs of the applicant.

3. A list of the names, addresses, official positions and biographical information of the persons responsible for conducting the applicant's affairs, including, but not limited to:

(a) The members of the board of directors;

(b) The members of the board of trustees;

(c) The members of the executive committee or other governing board or committee;

(d) The principal officers;

(e) Any person owning or having the right to acquire 10 percent or more of the voting securities of the applicant; and

(f) If the applicant is a partnership or association, the partners or members of that partnership or association.

4. A statement generally describing the applicant, its facilities, employees and the limited health service or services to be offered.

5. A copy of any contract made or to be made between the applicant and any provider concerning the provision of a limited health service to enrollees.

6. A copy of any contract made, or to be made between the applicant and any person described in subsection 3 . ~~[of this section.]~~

7. A copy of any contract made or to be made between the applicant and any person for the performance on the applicant's behalf of any functions, including, but not limited to, marketing, administration, enrollment, management of investments and subcontracting for the provision of a limited health service to enrollees.

8. A copy of the form of any group contract which is to be issued to employers, unions, trustees or other organizations.

9. A copy of any form for evidence of coverage to be issued to subscribers.

10. A copy of the applicant's most recent financial statements which have been audited by an independent certified public accountant. If the financial affairs of the parent company of the applicant are audited by an independent certified public accountant and the financial affairs of the applicant are not audited, the applicant must submit a copy of the most recently audited financial statement of the parent company which was certified by an independent certified public accountant and the consolidating financial

statements of the applicant, unless the Commissioner determines that additional or more recent financial information is required.

11. A copy of the applicant's financial plan, including a 3-year projection of the anticipated operating results, a statement of the sources of working capital and any other sources of funding and any plan for contingencies.

12. A schedule of the rates and charges for the limited health service.

13. A description of the proposed method of marketing.

14. A statement acknowledging that any process in any legal action or proceeding against the applicant on a cause of action arising in this state is valid if lawfully served.

15. A description of the procedure for the resolution of complaints submitted by enrollees concerning the limited health service provided by the prepaid limited health service organization.

16. A description of the procedures to be established for quality assessment and utilization review.

17. A description of the applicant's plan to comply with the provisions of NRS 695F.200.

18. ~~[The fee]~~ *All applicable fees* for filing an application for a certificate of authority.

19. Such other information as the Commissioner may require to make the determination required by this chapter.

Sec. 88. ~~[NRS 695F.156 is hereby amended to read as follows:~~

~~695F.156 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the prepaid limited health service organization for a medical condition of an enrollee and the enrollee's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; [or]~~

~~(c) Require any coverage for a drug after the term of the evidence of coverage [.]; or~~

~~*(d) Apply if the prescription drug is covered under the provisions of section 86 of this act.*~~

~~3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.]~~ *(Deleted by amendment.)*

Sec. 89. NRS 695F.340 is hereby amended to read as follows:

695F.340 Each prepaid limited health service organization shall pay to the Commissioner the following fees:

| | |
|---|---|
| For filing an application for a certificate of authority | $2,450 |
| For issuance of a certificate of authority | 283 |
| For the renewal of a certificate of authority | 2,450 |
| For filing a material change or addition of a limited health service | 100 |
| For filing an annual report | 25 |
| For filing periodic reports required by the Commissioner ~~[.]~~ | $25 |

*In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 90. ~~[Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 2, if a health care plan includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the managed care organization must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*~~

~~*(a) The insured had been taking the prescription drug before the revision of the formulary;*~~

~~*(b) The drug was covered by the health care plan before the revision of the formulary; and*~~

~~*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*~~

~~*2. If the coverage for prescription drugs in a health care plan is revised, the managed care organization must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the managed care organization has notified the insured of any increase.*~~

~~*3. A health care plan subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the health care plan or the renewal which is in conflict with this section is void.]~~ *(Deleted by amendment.)*

Sec. 91. ~~[NRS 695G.166 is hereby amended to read as follows:~~

~~695C.166 1. Except as otherwise provided in this section, a health care plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:~~

~~(a) Had previously been approved for coverage by the managed care organization for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and~~

~~(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.~~

~~2. The provisions of subsection 1 do not:~~

~~(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;~~

~~(b) Prohibit:~~

~~(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;~~

~~(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or~~

~~(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; [or]~~

~~(c) Require any coverage for a drug after the term of the plan.[.]~~ ~~; or~~

~~*(d) Apply if the prescription drug is covered under the provisions of section 90 of this act.*~~

~~3. Any provision of a health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.]~~ *(Deleted by amendment.)*

Sec. 92. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting

the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration annually before the registration expires. Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500 ~~[;]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act;* and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 93. NRS 696A.140 is hereby amended to read as follows:

696A.140 The Commissioner shall not issue a certificate of authority to any motor club until:

1. It files with him the following:

(a) A formal application for the certificate in such form and detail as the Commissioner requires, executed under oath by its president or other principal officer.

(b) A certified copy of its charter or articles of incorporation and its bylaws.

2. It pays to him the following:

(a) A fee of $500 for the filing of an application for the certificate; ~~[and]~~

(b) A fee of $283 for the issuance of the certificate ~~[.]~~ *; and*

*(c) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. It deposits the required cash, securities, bond or evidence of such a deposit in another state as provided in NRS 696A.080 with the Commissioner.

4. Its name is approved by the Commissioner pursuant to NRS 696A.120.

Sec. 94. NRS 696A.150 is hereby amended to read as follows:

696A.150 Every certificate of authority issued to a motor club expires annually on March 1 unless it is revoked or suspended. The certificate may be renewed by paying to the Commissioner an annual fee for renewal of $500 before the expiration of the certificate ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 95. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner ~~[an annual fee of $500.]~~ *all applicable fees.*

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement or to pay timely the annual fee required by this section shall pay an administrative penalty of $100 per day until the report or statement is filed, except that the total penalty must not exceed $3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 96. NRS 696A.300 is hereby amended to read as follows:

696A.300 1. Each license for a club agent issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon submission of the statement required pursuant to NRS 696A.303 and payment to the Commissioner of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal and a fee established by the Commissioner of not more than $15 for deposit in the insurance recovery account created by NRS 679B.305. The statement must be submitted and the

fees must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by the statement required pursuant to NRS 696A.303, a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the fee established by the Commissioner of not more than $15 for deposit in the insurance recovery account created by NRS 679B.305.

3. The Commissioner shall collect in advance and deposit with the State Treasurer for credit to the State General Fund the following fees for licensure as a club agent:

(a) Application and license ..... $78
(b) Appointment by each motor club ..... 5
(c) Triennial renewal of each license ..... 78

*(d) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 97. NRS 697.230 is hereby amended to read as follows:

697.230 1. Except as otherwise provided in NRS 697.177, each license issued to a general agent, bail agent, bail enforcement agent or bail solicitor under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day of the month in which the license is renewable. ~~[The fee]~~ *All applicable fees* must be accompanied by:

(a) Proof that the licensee has completed a 3-hour program of continuing education that is:

(1) Offered by the authorized surety insurer from whom he received his written appointment, if any, a state or national organization of bail agents or another organization that administers training programs for general agents, bail agents, bail enforcement agents or bail solicitors; and

(2) Approved by the Commissioner;

(b) If the licensee is a natural person, the statement required pursuant to NRS 697.181; and

(c) A written request for renewal of the license. The request must be made and signed:

(1) By the licensee in the case of the renewal of a license as a general agent, bail enforcement agent or bail agent.

(2) By the bail solicitor and the bail agent who employs the solicitor in the case of the renewal of a license as a bail solicitor.

2. Any license that is not renewed on or before the last day specified for its renewal expires at midnight on that day. The Commissioner may accept a request for renewal received by him within 30 days after the date of expiration if the request is accompanied by a fee for renewal of 150 percent

of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and, if the person requesting renewal is a natural person, the statement required pursuant to NRS 697.181.

3. A bail agent's license continues in force while there is in effect an appointment of him as a bail agent of one or more authorized insurers. Upon termination of all the bail agent's appointments and his failure to replace any appointment within 30 days thereafter, his license expires and he shall promptly deliver his license to the Commissioner.

4. The Commissioner shall terminate the license of a general agent for a particular insurer upon a written request by the insurer.

5. This section does not apply to temporary licenses issued under NRS 683A.311 or 697.177.

Sec. 98. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of *section 38.5 of this act and* NRS 689B.030 to 689B.050, inclusive, ~~*[and section 52 of this act,]*~~ 689B.287 and 689B.575 apply to coverage provided pursuant to this

paragraph . ~~[, except that the provisions of NRS 689B.0359 do not apply to such coverage.]~~

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 99. NRS 616A.469 is hereby amended to read as follows:

616A.469 1. The Commissioner may issue certificates authorizing qualified external review organizations to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS. If the Commissioner issues such certificates and the Commissioner determines that an external review organization is qualified to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS, the Commissioner shall issue a certificate to the external review organization that authorizes the organization to conduct such external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner.

2. The Commissioner may adopt regulations setting forth the procedures that an external review organization must follow to be issued a certificate to conduct external reviews. Any regulations adopted pursuant to this section must include, without limitation, provisions setting forth:

(a) The manner in which an external review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section;

(c) The manner and circumstances under which an external review organization is required to conduct its business; and

(d) ~~[A fee]~~ *Any applicable fees* for issuing or renewing a certificate of an external review organization pursuant to this section. ~~[The fee must not exceed the cost of issuing or renewing the certificate.]~~

3. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

4. Before the Commissioner may issue a certificate to an external review organization, the external review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an external review organization as set forth in NRS 616C.363 and the regulations adopted by the Commissioner. The demonstration must include, without limitation, proof that the external review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the external review organization will:

(1) Conduct external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner;

(2) Render its decisions in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

5. For the purposes of this section, an external review organization has a conflict of interest if the external review organization or any employee, agent

or contractor of the external review organization who conducts an external review has a professional, familial or financial interest of a material nature with respect to any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The claimant;

(b) The employer; or

(c) The insurer or any officer, director or management employee of the insurer.

6. The Commissioner shall not issue a certificate to an external review organization that is affiliated with:

(a) An organization for managed care which provides comprehensive medical and health care services to employees for injuries or diseases pursuant to chapters 616A to 617, inclusive, of NRS;

(b) An insurer;

(c) A third-party administrator; or

(d) A national, state or local trade association.

7. An external review organization which is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for the external review organization to be issued a certificate pursuant to this section.

Sec. 100. NRS 616B.350 is hereby amended to read as follows:

616B.350 1. A group of five or more employers may not act as an association of self-insured public employers unless the group:

(a) Is composed of employers engaged in the same or similar classifications of employment; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

2. A group of five or more employers may not act as an association of self-insured private employers unless each member of the group:

(a) Is a member or associate member of a bona fide trade association, as determined by the Commissioner, which:

(1) Is incorporated in this State; and

(2) Has been in existence for at least 5 years; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

3. An association of public or private employers that wishes to be issued a certificate must file with the Commissioner an application for certification.

4. The application must include:

(a) The name of the association.

(b) The address of:

(1) The principal office of the association.

(2) The location where the books and records of the association will be maintained.

(c) The date the association was organized.

(d) The name and address of each member of the association.

(e) The names of the initial members of the board of trustees and the name of the initial association's administrator.

(f) Such other information as the Commissioner may require.

5. The application must be accompanied by:

(a) A nonrefundable filing fee of $1,000 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

(b) Proof of compliance with NRS 616B.353.

(c) Proof that the association or its third-party administrator is licensed or otherwise authorized to conduct business in this State pursuant to title 57 of NRS.

(d) A copy of the agreements entered into with the association's administrator and a third-party administrator.

(e) A copy of the bylaws of the association.

(f) A copy of an agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(g) A pro forma financial statement prepared by an independent certified public accountant in accordance with generally accepted accounting principles that shows the financial ability of the association to pay all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(h) A reviewed financial statement prepared by an independent certified public accountant for each proposed member of the association or evidence of the ability of the association or its proposed members to provide a solvency bond pursuant to subsection 3 of NRS 616B.353.

(i) Proof that each member of the association will make the initial payment to the association required pursuant to NRS 616B.416 on a date specified by the Commissioner. The payment shall be deemed to be a part of the assessment required to be paid by each member for the first year of self-insurance if certification is issued to the association.

6. Except as otherwise provided in NRS 239.0115, any financial information relating to a member of an association received by the Commissioner pursuant to the provisions of this section is confidential and must not be disclosed.

7. For the purposes of this section, "associate member of a bona fide trade association" means a supplier whose business, as determined by the Commissioner:

(a) Is limited to a specific industry; and

(b) Primarily involves providing a product or service that is directly used or consumed by substantially all of the members of the trade association or bears a direct relationship to the business of the members of the association.

Sec. 101. NRS 616B.359 is hereby amended to read as follows:

616B.359 1. The Commissioner shall grant or deny an application for certification as an association of self-insured public or private employers within 60 days after receiving the application. If the application is materially incomplete or does not comply with the applicable provisions of the law, the

Commissioner shall notify the applicant of the additional information or changes required. Under such circumstances, if the Commissioner is unable to act upon the application within this 60-day period, he may extend the period for granting or denying the application, but for not longer than an additional 90 days.

2. Upon determining that an association is qualified as an association of self-insured public or private employers, the Commissioner shall issue a certificate to that effect to the association and the association's administrator. No certificate may be issued to an association that, within the 2 years immediately preceding its application, has had its certification as an association of self-insured public or private employers involuntarily withdrawn by the Commissioner.

3. A certificate issued pursuant to this section must include, without limitation:

(a) The name of the association;

(b) The name of each employer who the Commissioner determines is a member of the association at the time of the issuance of the certificate;

(c) An identification number assigned to the association by the Commissioner; and

(d) The date on which the certificate was issued.

4. A certificate issued pursuant to this section remains in effect until *the certificate is* withdrawn by the Commissioner ~~[or]~~ *, the certificate is* cancelled at the request of the association ~~[.]~~ *or an association does not pay, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* Coverage for an association granted a certificate becomes effective on the date of certification or the date specified in the certificate.

5. The Commissioner shall not grant a request to cancel a certificate unless the association has insured or reinsured all incurred obligations with an insurer authorized to do business in this State pursuant to an agreement filed with and approved by the Commissioner. The agreement must include coverage for actual claims and claims incurred but not reported, and the expenses associated with those claims.

Sec. 102. NRS 658.151 is hereby amended to read as follows:

658.151 1. The Commissioner may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the depository institution:

(a) Has violated its charter or any laws applicable thereto.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' or members' equity.

(e) Has refused to pay its depositors in accordance with the terms on which such deposits were received, or has refused to pay its holders of certificates of indebtedness or investment in accordance with the terms upon which those certificates of indebtedness or investment were sold.

(f) Has become *or is in imminent danger of becoming* otherwise insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to trustees.

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

2. The Commissioner also may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the officers of the depository institution have refused to be examined upon oath regarding its affairs.

Sec. 103. NRS 667.035 is hereby amended to read as follows:

667.035 1. ~~[After July 1, 1971, the]~~ *The* Federal Deposit Insurance Corporation created by the Federal Deposit Insurance Act, 12 U.S.C. 1811, may act without bond as receiver or liquidator of any state bank which ~~[has]~~ *:*

*(a) Has* been closed because of inability to meet the demands of its depositors ~~[.]~~ *; or*

*(b) Is insured by the Federal Deposit Insurance Corporation and has been taken possession of by the Commissioner pursuant to NRS 658.151.*

2. The appropriate state authority having the right to appoint a receiver or liquidator of a state bank may, upon such closing, tender to the Federal Deposit Insurance Corporation the appointment as receiver or liquidator of such bank. If the Federal Deposit Insurance Corporation accepts the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of a state bank, its depositors and other creditors, and shall be subject to all the duties of such receiver or liquidator, except insofar as such powers, privileges or duties are in conflict with the provisions of the Federal Deposit Insurance Act.

Sec. 104. NRS 689B.0359, 689B.036, 695B.1938, 695B.194, 695C.1738 and 695C.174 are hereby repealed.

Sec. 105. Notwithstanding any other provision of this act:

1. On or before October 1, 2009, a person who, on the effective date of this act, is subject to an annual fee pursuant to section 3 of this act shall pay to the Commissioner 50 percent of the annual fee listed for that person in section 3 of this act, except for:

(a) External review organizations, as provided for in NRS 616A.469 or 683A.371, or both;

(b) Agents who perform utilization reviews, as defined in NRS 683A.376;

(c) Brokers of viatical settlements, as defined in NRS 688C.030;

(d) Providers of viatical settlements, as defined in NRS 688C.080;

(e) Captive insurers, as defined in NRS 694C.060;

(f) Purchasing groups, as defined in NRS 695E.100; and

(g) Risk retention groups, as defined in NRS 695E.110.

2. A person who pays pursuant to subsection 1 shall next pay an annual fee on or before March 1, 2010.

Sec. 106. 1. This section and sections 1 to 36, inclusive, 39 to 48, inclusive, 63 to 66, inclusive, 68, 71 to 74, inclusive, 77, 82 to 85, inclusive, 87, 89, 92 to 103, inclusive, and 105 of this act become effective upon passage and approval.

2. Sections *38.5,* 49 to 52, inclusive, 54, ~~[55,]~~ 59 to 62, inclusive, 67, 69, 70, 76, 78, 79, 81, 86, 88, 90 ~~[and]~~ , 91 *and 98* of this act become effective on June 15, 2009.

3. Sections 53, 75, 80 ~~[, 98]~~ and 104 of this act become effective on October 1, 2009.

4. Sections 37, *55,* 56, 57 and 58 of this act become effective on October 3, 2009.

5. Section 38 of this act becomes effective on October 9, 2009.

LEADLINES OF REPEALED SECTIONS

689B.0359 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

689B.036 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

695B.1938 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695B.194 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

695C.1738 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695C.174 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

Senator Mathews moved the adoption of the amendment.

Conflict of interest declared by Senator Raggio.

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

Remarks by Senator Mathews.

This requires the insurer to issue policy of insurance to providers and to notify them of any changes in the formulary.

Amendment adopted.

The following amendment was proposed by the Committee on Finance:

Amendment No. 866.

"SUMMARY—Revises provisions relating to insurance. (BDR 57-1203)"

"AN ACT relating to insurance; creating the Fund for Insurance Administration and Enforcement and new fees to provide money for the Fund; eliminating certain restrictions on out-of-state insurers; requiring certain insurers to comply with newly enacted federal acts; *revising provisions relating to viatical settlements;* revising provisions related to the Federal Deposit Insurance Corporation; requiring certain health care plans

and policies of insurance to provide continued coverage for certain prescription drugs related to transplanted organs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-3 of this bill create: (1) the Fund for Insurance Administration and Enforcement as an enterprise fund to carry out the provisions of the Nevada Insurance Code; and (2) new fees to provide money for the Fund.

Sections 7 and 85 of this bill eliminate certain restrictions on out-of-state insurers due to a court decision by the United States Ninth Circuit Court of Appeals (*Council of Insurance Agents & Brokers v. Molasky-Arman*, 522 F.3d 925 (9th Cir. 2008)). (NRS 680A.300, 695E.130) This case holds that Nevada law violates the Privileges and Immunities Clause of the United States Constitution regarding nonresident insurance agents and resident agents.

Sections 35-38 and 55-58 of this bill require certain insurers to comply with newly enacted federal acts.

*Sections 38.105, 38.12-40.58 and 97.72-97.77 of this bill revise provisions relating to viatical settlements.*

Sections 102 and 103 of this bill revise provisions related to the Federal Deposit Insurance Corporation.

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555)

Sections 49, 52, 59, 67, 70, 78, 86 and 90 of this bill require those health care plans and policies of insurance, other than the State Plan for Medicaid, to also provide continued coverage for certain prescription drugs related to transplanted organs. These and any related provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after June 15, 2009.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. The Fund for Insurance Administration and Enforcement is hereby created in the State Treasury as an enterprise fund.*

*2. The Fund must be used solely for the administration and enforcement of the Code and other laws and regulations enforced by the Division.*

*3. The State Treasurer shall invest the money in the Fund in the same manner and in the same securities in which he is authorized to invest state*

*general funds that are in his custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.*

Sec. 3. *1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.*

*2. A fee required by this section must be:*

*(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;*

*(b) If an annual fee, paid on or before March 1 of every year;*

*(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and*

*(d) Deposited in the Fund for Insurance Administration and Enforcement created by section 2 of this act.*

*3. The fees required pursuant to this section are not refundable.*

*4. The following fees must be paid by the following persons to the Commissioner:*

*(a) Associations of self-insured private employers, as defined in NRS 616A.050:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(b) Associations of self-insured public employers, as defined in NRS 616A.055:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(c) External review organizations, as provided for in NRS 616A.469 or 683A.371, or both:*

*(1) Initial fee ..... $60*

*(2) Annual fee ..... $60*

*(d) Insurers not otherwise provided for in this subsection:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(e) Producers of insurance, as defined in NRS 679A.117:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(f) Accredited reinsurers, as provided for in NRS 681A.160:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(g) Intermediaries, as defined in NRS 681A.330:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(h) Reinsurers, as defined in NRS 681A.370:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(i) Administrators, as defined in NRS 683A.025:*

*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(j) Managing general agents, as defined in NRS 683A.060:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(k) Agents who perform utilization reviews, as defined in NRS 683A.376:*
*(1) Initial fee ..... $60*
*(2) Annual fee ..... $60*
*(l) Insurance consultants, as defined in NRS 683C.010:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(m) Independent adjusters, as defined in NRS 684A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(n) Public adjusters, as defined in NRS 684A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(o) Associate adjusters, as defined in NRS 684A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(q) Brokers, as defined in NRS 685A.030:*
*(1) Initial fee ..... $60*
*(2) Triennial fee ..... $60*
*(r) Eligible surplus line insurers, as provided for in NRS 685A.070:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(s) Companies, as defined in NRS 686A.330:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(t) Rate service organizations, as defined in NRS 686B.020:*
*(1) Initial fee ..... $1,300*
*(2) Annual fee ..... $1,300*
*(u) Brokers of viatical settlements, as defined in NRS 688C.030:*
*(1) Initial fee ..... $60*
*(2) Annual fee ..... $60*
*(v) Providers of viatical settlements, as defined in NRS 688C.080:*
*(1) Initial fee ..... $60*
*(2) Annual fee ..... $60*
*(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:*
*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(aa) Providers, as defined in NRS 690C.070:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(bb) Escrow officers, as defined in NRS 692A.028:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(cc) Title agents, as defined in NRS 692A.060:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(dd) Captive insurers, as defined in NRS 694C.060:*

*(1) Initial fee ..... $250*

*(2) Annual fee ..... $250*

*(ee) Fraternal benefit societies, as defined in NRS 695A.010:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(ff) Insurance agents for societies, as provided for in NRS 695A.330:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(gg) Corporations subject to the provisions of chapter 695B of NRS:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(hh) Health maintenance organizations, as defined in NRS 695C.030:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(ii) Organizations for dental care, as defined in NRS 695D.060:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(jj) Purchasing groups, as defined in NRS 695E.100:*

*(1) Initial fee ..... $250*

*(2) Annual fee ..... $250*

*(kk) Risk retention groups, as defined in NRS 695E.110:*

*(1) Initial fee ..... $250*

*(2) Annual fee ..... $250*

*(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(mm) Medical discount plans, as defined in NRS 695H.050:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(nn) Club agents, as defined in NRS 696A.040:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(oo) Motor clubs, as defined in NRS 696A.050:*

*(1) Initial fee ..... $1,300*

*(2) Annual fee ..... $1,300*

*(pp) Bail agents, as defined in NRS 697.040:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(qq) Bail enforcement agents, as defined in NRS 697.055:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(rr) Bail solicitors, as defined in NRS 697.060:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

*(ss) General agents, as defined in NRS 697.070:*

*(1) Initial fee ..... $60*

*(2) Triennial fee ..... $60*

Sec. 4. NRS 679B.380 is hereby amended to read as follows:

679B.380 1. Except as otherwise expressly provided in this Code, funds with which to carry out the administration and enforcement by the Commissioner of this Code shall be provided by [legislative appropriation from the General Fund] *the Fund for Insurance Administration and Enforcement created by section 2 of this act* and shall be paid out on claims as other claims against the State are paid.

2. No such claim shall be paid unless approved by the commissioner.

Sec. 5. NRS 680A.150 is hereby amended to read as follows:

680A.150 To apply for an original certificate of authority an insurer shall file with the Commissioner its written application therefor on forms as prescribed and furnished by the Commissioner, accompanied by the applicable fees specified in NRS 680B.010 ~~[,]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act,* stating under the oath of the president or vice president or other chief officer and the secretary of the insurer, or of the attorney-in-fact if a reciprocal insurer, the insurer's name, location of its home office, or principal office in the United States if an alien insurer, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country

of domicile, and such additional information as the Commissioner may reasonably require, together with the following documents, as applicable:

1. If a corporation, a copy of its charter or certificate or articles of incorporation, together with all amendments thereto, or as restated and amended under the laws of its state or country of domicile, currently certified by the public officer with whom the originals are on file in that state or country.

2. If a domestic incorporated insurer or a mutual insurer, a copy of its bylaws, certified by the insurer's corporate secretary.

3. If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in NRS 694B.060.

4. A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two executive officers of the insurer or certified by the public insurance supervisory officer of the insurer's state of domicile, or of entry into the United States if an alien insurer.

5. A copy of the report of last examination made of the insurer within not more than 5 years next preceding, certified by the public insurance supervisory officer of the insurer's state of domicile, or of entry into the United States if an alien insurer.

6. The appointment of the Commissioner pursuant to NRS 680A.250 as its attorney to receive service of legal process.

7. If a foreign or alien insurer, a certificate of the public insurance supervisory officer of its state or country of domicile showing that it is authorized or qualified for authority to transact in such state or country the kinds of insurance proposed to be transacted in this state.

8. If a foreign insurer, a certificate as to a deposit if it is to be tendered pursuant to NRS 680A.140.

9. A copy of the insurer's rate book and of each form of policy currently proposed to be issued in this state, and of the form of application therefor.

10. If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

11. Designation by the insurer of its officer or representative authorized to appoint and remove its agents in this state.

Sec. 6. NRS 680A.180 is hereby amended to read as follows:

680A.180 1. A certificate of authority continues in force as long as the insurer is entitled thereto under this Code, and until suspended or revoked by the Commissioner or terminated at the insurer's request, if, each year, the insurer:

(a) Pays on or before March 1 the continuation fee provided in NRS 680B.010 ~~[;]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act;*

(b) Files its annual statement for the next preceding calendar year as required by NRS 680A.270; and

(c) Pays, if required, the premium taxes for the preceding calendar year.

2. If not so continued by the insurer, its certificate of authority expires at midnight on the May 31 next following such failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in NRS 680A.190. The Commissioner shall promptly notify the insurer of the occurrence of any failure resulting in the impending expiration of its certificate of authority.

3. The Commissioner may, upon the insurer's request made within 3 months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration, and upon payment by the insurer of the fee for reinstatement specified in subsection 1 of NRS 680B.010. Otherwise, the insurer may be granted another certificate of authority only after filing an application therefor and meeting all other requirements for an original certificate of authority in this state.

Sec. 7. NRS 680A.300 is hereby amended to read as follows:

680A.300 1. Except as provided in NRS 680A.310, no authorized insurer may make, write, place, renew or cause to be made, placed or renewed, any policy or duplicate policy , *endorsement or contract* of insurance of any kind upon persons, property or risks resident, located or to be performed in this State, except through its duly appointed and licensed agents , ~~[resident in this State,]~~ any one of whom shall countersign the policy ~~[.]~~ *, endorsement or contract.*

2. Where two or more insurers jointly issue a single policy, the policy may be countersigned, on behalf of all insurers appearing thereon, by a *duly appointed and* licensed agent ~~[resident in this State]~~ of any one insurer.

3. In any case where it is necessary to execute an emergency bond and a commissioned agent authorized to execute the bond is not present, a manager or other employee of the insurer having authority under a power of attorney may execute the bond in order to produce a valid contract between the insurer and the obligee. The bond must subsequently be countersigned by a ~~[resident]~~ commissioned agent ~~[,]~~ who *is authorized to execute the bond. The commissioned agent who executes the bond* shall make and retain an adequate office record of the transaction.

4. ~~[Nothing contained in this section prevents exercise of the free and unlimited right to negotiate contracts by licensed nonresident agents or brokers outside this State, if the policies, endorsements or evidence of those contracts covering properties or insurable interests in this State are countersigned by a registered agent of this State. Every such policy or contract must be countersigned by a registered agent.~~

~~5. On business produced by a licensed nonresident agent or broker, which is countersigned by a resident commissioned agent of this State, there must be a division of the usual commission between the licensed nonresident producing agent or broker and the resident countersigning commissioned agent which must produce for the latter a commission of at least 5 percent of~~

~~the premium. No commission or fee is required as to policies with an annual premium of $250 or less. The insurer issuing any policy or bond is responsible for payment to the countersigning agent of the fee or commission for the countersignature. Where the licensed nonresident agent or broker or the insurer assuming the risk desires the resident commissioned agent to render additional services during the life of a policy, the compensation to the countersigning commissioned registered agent is a matter of contract between the parties in interest.~~

~~6.]~~ An insurer may use an endorsement to the policy for the sole purpose of countersigning the policy, as required in this section, only if:

(a) The endorsement is attached to the policy to which it applies; and

(b) The policy insures persons or property in this State and one or more other states.

Sec. 8. NRS 680B.010 is hereby amended to read as follows:

680B.010 The Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, fees and miscellaneous charges as follows:

1. Insurer's certificate of authority:

(a) Filing initial application ..... $2,450

(b) Issuance of certificate:

(1) For any one kind of insurance as defined in NRS 681A.010 to 681A.080, inclusive ..... 283

(2) For two or more kinds of insurance as so defined ..... 578

(3) For a reinsurer ..... 2,450

(c) Each annual continuation of a certificate ..... 2,450

(d) Reinstatement pursuant to NRS 680A.180, 50 percent of the annual continuation fee otherwise required.

(e) Registration of additional title pursuant to NRS 680A.240 ..... 50

(f) Annual renewal of the registration of additional title pursuant to NRS 680A.240 ..... 25

2. Charter documents, other than those filed with an application for a certificate of authority. Filing amendments to articles of incorporation, charter, bylaws, power of attorney and other constituent documents of the insurer, each document ..... $10

3. Annual statement or report. For filing annual statement or report ..... $25

4. Service of process:

(a) Filing of power of attorney ..... $5

(b) Acceptance of service of process ..... 30

5. Licenses, appointments and renewals for producers of insurance:

(a) Application and license ..... $125

(b) Appointment fee for each insurer ..... 15

(c) Triennial renewal of each license ..... 125

(d) Temporary license ..... 10

(e) Modification of an existing license ..... 50

6. Surplus lines brokers:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

7. Managing general agents' licenses, appointments and renewals:

(a) Application and license ..... $125

(b) Appointment fee for each insurer ..... 15

(c) Triennial renewal of each license ..... 125

8. Adjusters' licenses and renewals:

(a) Independent and public adjusters:

(1) Application and license ..... $125

(2) Triennial renewal of each license ..... 125

(b) Associate adjusters:

(1) Application and license ..... 125

(2) Triennial renewal of each license ..... 125

9. Licenses and renewals for appraisers of physical damage to motor vehicles:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

10. Additional title and property insurers pursuant to NRS 680A.240:

(a) Original registration ..... $50

(b) Annual renewal ..... 25

11. Insurance vending machines:

(a) Application and license, for each machine ..... $125

(b) Triennial renewal of each license ..... 125

12. Permit for solicitation for securities:

(a) Application for permit ..... $100

(b) Extension of permit ..... $50

13. Securities salesmen for domestic insurers:

(a) Application and license ..... $25

(b) Annual renewal of license ..... 15

14. Rating organizations:

(a) Application and license ..... $500

(b) Annual renewal ..... 500

15. Certificates and renewals for administrators licensed pursuant to chapter 683A of NRS:

(a) Application and certificate of registration ..... $125

(b) Triennial renewal ..... 125

16. For copies of the insurance laws of Nevada, a fee which is not less than the cost of producing the copies.

17. Certified copies of certificates of authority and licenses issued pursuant to the Code ..... $10

18. For copies and amendments of documents on file in the Division, a reasonable charge fixed by the Commissioner, including charges for duplicating or amending the forms and for certifying the copies and affixing the official seal.

19. Letter of clearance for a producer of insurance or other licensee if requested by someone other than the licensee ..... $10

20. Certificate of status as a producer of insurance or other licensee if requested by someone other than the licensee ..... $10

21. Licenses, appointments and renewals for bail agents:

(a) Application and license ..... $125

(b) Appointment for each surety insurer ..... 15

(c) Triennial renewal of each license ..... 125

22. Licenses and renewals for bail enforcement agents:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

23. Licenses, appointments and renewals for general agents for bail:

(a) Application and license ..... $125

(b) Initial appointment by each insurer ..... 15

(c) Triennial renewal of each license ..... 125

24. Licenses and renewals for bail solicitors:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

25. Licenses and renewals for title agents and escrow officers:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

(c) Appointment fee for each title insurer ..... 15

(d) Change in name or location of business or in association ..... 10

26. Certificate of authority and renewal for a seller of prepaid funeral contracts ..... $125

27. Licenses and renewals for agents for prepaid funeral contracts:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... $125

28. Licenses, appointments and renewals for agents for fraternal benefit societies:

(a) Application and license ..... $125

(b) Appointment for each insurer ..... 15

(c) Triennial renewal of each license ..... 125

29. Reinsurance intermediary broker or manager:

(a) Application and license ..... $125

(b) Triennial renewal of each license ..... 125

30. Agents for and sellers of prepaid burial contracts:

(a) Application and certificate or license ..... $125

(b) Triennial renewal ..... 125

31. Risk retention groups:
(a) Initial registration ..... $250
(b) Each annual continuation of a certificate of registration ..... 250
32. Required filing of forms:
(a) For rates and policies ..... $25
(b) For riders and endorsements ..... 10
33. Viatical settlements:
(a) Provider of viatical settlements:
(1) Application and license ..... $1,000
(2) Annual renewal ..... 1,000
(b) Broker of viatical settlements:
(1) Application and license ..... 500
(2) Annual renewal ..... 500
(c) Registration of producer of insurance acting as a viatical settlement broker ..... 250
34. Insurance consultants:
(a) Application and license ..... $125
(b) Triennial renewal ..... 125
35. Licensee's association with or appointment or sponsorship by an organization:
(a) Initial appointment, association or sponsorship, for each organization ..... $50
(b) Renewal of each association or sponsorship ..... 50
(c) Annual renewal of appointment ..... 15
36. Purchasing groups:
(a) Initial registration and review of an application ..... $100
(b) Each annual continuation of registration ..... 100
*37. In addition to any other fee or charge, all applicable fees required of any person, including, without limitation, persons listed in this section, pursuant to section 3 of this act.*

Sec. 9. NRS 680B.060 is hereby amended to read as follows:

680B.060 1. The taxes imposed under NRS 680B.027 must be collected by the Department of Taxation and promptly deposited with the State Treasurer for credit to the State General Fund.

2. If the tax is not paid by the insurer on or before the date required for payment, the tax then becomes delinquent, and payment thereof may be enforced by court action instituted on behalf of the State by the Attorney General. The Attorney General may employ additional counsel in the city where the home office of the insurer is located, subject to the approval of compensation for such services by the State Board of Examiners. The administrative and substantive enforcement provisions of chapters 360 and 372 of NRS apply to the enforcement of the taxes imposed under NRS 680B.027.

3. Upon the tax becoming delinquent, the Executive Director of the Department of Taxation shall notify the Commissioner, who shall suspend or revoke the insurer's certificate of authority pursuant to NRS 680A.190.

4. If a dispute arises between an insurer and the State as to the amount of tax, if any, payable, the insurer is entitled to pay under protest the tax in the amount assessed by the Department of Taxation, without waiving or otherwise affecting any right of the insurer to recover any amount determined, through appropriate legal action taken by the insurer against the Department of Taxation, to have been in excess of the amount of tax lawfully payable.

5. ~~[All]~~ *Except as otherwise provided in section 3 of this act, all* taxes, fees, licenses, fines and charges collected under this Code, including the general premium tax provided for under NRS 680B.027 and as increased in any instances pursuant to NRS 680A.330, must be promptly deposited with the State Treasurer for credit to the State General Fund.

Sec. 10. NRS 681A.160 is hereby amended to read as follows:

681A.160 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

(a) Files with the Commissioner an executed form approved by the Commissioner as evidence of its submission to this state's jurisdiction;

(b) Submits to this state's authority to examine its books and records;

(c) Files with the Commissioner a certified copy of a certificate of authority or other evidence approved by the Commissioner indicating that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a branch in the United States of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the Commissioner a copy of its annual statement filed with the Division of its state of domicile or entry and a copy of its most recent audited financial statement; ~~[and]~~

(e) Maintains a surplus as regards policyholders in an amount which is not less than $20,000,000 and whose accreditation:

(1) Has not been denied by the Commissioner within 90 days after its submission; or

(2) Has been approved by the Commissioner ~~[.]~~ *; and*

*(f) Pays all applicable fees, including, without limitation, all applicable fees required pursuant to section 3 of this act.*

2. No credit may be allowed for a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and a hearing.

Sec. 11. NRS 681A.430 is hereby amended to read as follows:

681A.430 1. The Commissioner may issue a license to act as an intermediary to any person who has complied with the requirements of NRS 681A.250 to 681A.580, inclusive, and who submits a written application for a license to act as an intermediary , ~~[and]~~ the appropriate fee

set forth in NRS 680B.010 ~~.~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* A license issued to a firm or association authorizes all the members of the firm or association and any designated employees to act as intermediaries. All those persons must be named in the application and any supplements thereto. A license issued to a corporation authorizes all of the officers and any designated employees and directors of the corporation to act as intermediaries on behalf of the corporation. All those persons must be named in the application and in any supplements thereto.

2. If an applicant for a license to act as an intermediary is a nonresident, he shall:

(a) Designate the Commissioner as agent for service of process;

(b) Furnish the Commissioner with the name and address of a resident of Nevada upon whom notices or orders of the Commissioner or process affecting the nonresident reinsurance intermediary may be served; and

(c) Promptly notify the Commissioner in writing of every change in his designated agent for service of process. The change is not effective until acknowledged by the Commissioner.

Sec. 12. NRS 683A.08524 is hereby amended to read as follows:

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

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

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

(c) Pays the fee for the issuance of a certificate of registration prescribed in NRS 680B.010 ~~.~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. The Commissioner may refuse to issue a certificate of registration as an administrator to an applicant if the Commissioner determines that the applicant or any person who has completed an affidavit pursuant to subsection 6 of NRS 683A.08522:

(a) Is not competent to act as an administrator;

(b) Is not trustworthy or financially responsible;

(c) Does not have a good personal or business reputation;

(d) Has had a license or certificate to transact insurance denied for cause, suspended or revoked in this state or any other state;

(e) Has failed to comply with any provision of this chapter; or

(f) Is financially unsound.

Sec. 13. NRS 683A.08526 is hereby amended to read as follows:

683A.08526 1. A certificate of registration as an administrator is valid for 3 years after the date the Commissioner issues the certificate to the administrator.

2. An administrator may renew a certificate of registration if he submits to the Commissioner:

(a) An application on a form prescribed by the Commissioner; and

(b) The fee for the renewal of the certificate of registration prescribed in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. A certificate of registration that is suspended or revoked must be surrendered immediately to the Commissioner.

Sec. 14. NRS 683A.160 is hereby amended to read as follows:

683A.160 Each applicant for a license as a managing general agent must submit with his application:

1. A complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

2. The appointment of the applicant as a managing general agent by each insurer or underwriter department to be so represented; and

3. The application and license fee specified in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 15. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; and

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

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

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

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

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

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

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

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

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

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

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

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, ~~[the fee]~~ *all applicable fees* for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of ~~[the]~~ *all applicable* renewal ~~[fee.]~~ *fees, except for any fee required pursuant to section 3 of this act.* A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

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

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

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

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may

revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 17. NRS 683A.271 is hereby amended to read as follows:

683A.271 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a nonresident person if:

(a) He is currently licensed as a resident and in good standing in his home state;

(b) He has made the proper request for licensure and paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account;

(c) He has sent to the Commissioner the application for licensure that he made in his home state, or a completed uniform application; and

(d) His home state issues nonresident licenses as producers of insurance to residents of this State pursuant to substantially the same procedure.

2. The Commissioner may participate with the National Association of Insurance Commissioners or a subsidiary in a centralized registry in which licensing and appointment of producers of insurance may be effected for all states that require licensing and participate in the registry. If he finds that participation is in the public interest, he may adopt by regulation any uniform standards and procedures necessary for participation, including central collection of fees for licensing and appointment that are handled through the registry.

3. A nonresident producer who moves from one state to another state shall file a change of address and certification from his new state of residence within 30 days after his change of legal residence. No fee or application for license is required.

4. A nonresident licensed as a producer for surplus lines in his home state must be issued a nonresident license of that kind in this State pursuant to subsection 1, subject in all other respects to chapter 685A of NRS. A nonresident licensed as a producer for limited lines in his home state is entitled to a nonresident license of that kind in this State pursuant to subsection 1, granting the same scope of authority as the license issued in the home state. As used in this subsection, insurance for limited lines is authority granted by the home state which is restricted to less than the total authority prescribed for the associated major lines pursuant to NRS 683A.261.

Sec. 18. NRS 683A.371 is hereby amended to read as follows:

683A.371 1. An external review organization shall not conduct an external review of a final adverse determination pursuant to NRS 695G.241 to 695G.310, inclusive, unless the external review organization is certified in accordance with regulations adopted by the Commissioner. The regulations must include, without limitation, provisions setting forth:

(a) The manner in which an external review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section; and

(c) The manner and circumstances under which an external review organization is required to conduct its business.

2. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

3. Except as otherwise provided in subsection 6, before the Commissioner may certify an external review organization, the external review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an external review organization set forth in this section and NRS 695G.241 to 695G.310, inclusive. The demonstration must include, without limitation, proof that the external review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the external review organization will:

(1) Conduct its external review activities in accordance with the provisions of this section and NRS 695G.241 to 695G.310, inclusive;

(2) Provide its determinations in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

4. For the purposes of this section, an external review organization has a conflict of interest if the external review organization or any employee, agent or contractor of the external review organization who conducts an external review has a material professional, familial or financial interest in any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The insured;

(b) The insurer or any officer, director or management employee of the insurer;

(c) The provider of health care services that are provided or proposed to be provided, his partner or any other member of his medical group or practice;

(d) The hospital or other licensed health care facility where the health care service or treatment that is subject to external review has been or will be provided; or

(e) A developer, manufacturer or other person who has a substantial interest in the principal procedure, equipment, drug, device or other instrumentality that is the subject of the external review.

5. The Commissioner shall not certify an external review organization that is affiliated with:

(a) A health care plan; or

(b) A national, state or local trade association.

6. An external review organization that is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for certification pursuant to this section.

7. The Commissioner may charge and collect ~~[a fee]~~ *all applicable fees* for issuing or renewing a certificate of an external review organization pursuant to this section. ~~[The fee must not exceed the cost of issuing or renewing the certificate.]~~

8. The Commissioner shall annually prepare and make available to the general public a list that includes the name of each external review organization which is issued a certificate or whose certificate is renewed pursuant to this section during the year immediately preceding the year in which the Commissioner prepares the list.

9. As used in this section:

(a) "Adverse determination" has the meaning ascribed to it in NRS 695G.012.

(b) "External review organization" has the meaning ascribed to it in NRS 695G.018.

(c) "Provider of health care" means any physician or other person who is licensed in this State or is licensed, certified or otherwise authorized by any other state to provide any health care service.

Sec. 19. NRS 683A.378 is hereby amended to read as follows:

683A.378 1. A person shall not conduct utilization review unless he is:

(a) Registered with the Commissioner as an agent who performs utilization review and has a medical director who is a physician or, in the case of an agent who reviews dental services, a dentist, licensed in any state; or

(b) Employed by a registered agent who performs utilization review.

2. A person may apply for registration by filing with the Commissioner a $250 fee *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act* and the following information on a form provided by the Commissioner:

(a) The applicant's name, address, telephone number and normal business hours;

(b) The name and telephone number of a person the Commissioner may contact for information concerning the applicant;

(c) The name of the medical director of the applicant and the state in which he is licensed to practice medicine or dentistry; and

(d) A summary of the plan for utilization review, including procedures for appealing determinations made through utilization review.

3. An agent who performs utilization review shall file with the Commissioner any material changes in the information provided pursuant to subsection 1 within 30 days after the change occurs.

4. The Commissioner shall not evaluate the plan submitted pursuant to paragraph (d) of subsection 2. The Commissioner shall make the plan available upon request and shall charge a reasonable fee for providing a copy of the plan.

5. Registration pursuant to this section must be renewed on or before March 1 of each year by providing the information specified in subsection 2 and paying a renewal fee of $250 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 20. NRS 683C.030 is hereby amended to read as follows:

683C.030 1. An application for a license to act as an insurance consultant must be submitted to the Commissioner on forms prescribed by the Commissioner and must be accompanied by the applicable license fee set forth in NRS 680B.010 , ~~[and]~~ an additional fee established by the Commissioner of not more than $15 which must be deposited in the Insurance Recovery Account created pursuant to NRS 679B.305 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* The license fee *set forth in NRS 680B.010* and the additional fee *established by the Commissioner of not more than $15* are not refundable. If the applicant is a natural person, the application must include the social security number of the applicant.

2. An applicant for an insurance consultant's license must successfully complete an examination and a course of instruction which the Commissioner shall establish by regulation.

3. Each license issued pursuant to this chapter is valid for 3 years from the date of issuance or until it is suspended, revoked or otherwise terminated ~~[.]~~ *, and each insurance consultant must pay, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 21. NRS 683C.035 is hereby amended to read as follows:

683C.035 1. The Commissioner shall prescribe the form of application by a natural person for a license as an insurance consultant. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years.

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license pursuant to NRS 683A.451.

(c) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, ~~[neither]~~ *none* of which may be refunded.

(d) Passed each examination required for the license and successfully completed each course of instruction which the Commissioner requires by regulation, unless he is a resident of another state and holds a similar license in that state.

2. A business organization must be licensed as an insurance consultant in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid ~~[the fee]~~ *all applicable fees* prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, ~~[neither]~~ *none* of which may be refunded; and

(b) Designated a natural person who is licensed as an insurance consultant in this State and who is affiliated with the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance.

3. The Commissioner may require any document reasonably necessary to verify information contained in an application.

4. A license issued pursuant to this chapter is valid for 3 years after the date of issuance or until it is suspended, revoked or otherwise terminated.

5. An insurance consultant may qualify for a license pursuant to this chapter in one or more of the lines of authority set forth in paragraphs (a) to (d), inclusive, of subsection 1 of NRS 683A.261.

Sec. 22. NRS 683C.040 is hereby amended to read as follows:

683C.040 1. A license may be renewed for additional 3-year periods by submitting to the Commissioner an application for renewal and:

(a) If the application is made:

(1) On or before the expiration date of the license, ~~[the]~~ *all* applicable renewal ~~[fee]~~ *fees* and an additional fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account; or

(2) Not more than 30 days after the expiration date of the license, ~~[the]~~ *all* applicable renewal ~~[fee]~~ *fees* plus any late fee required and an additional fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account;

(b) If the applicant is a natural person, the statement required pursuant to NRS 683C.043; and

(c) If the applicant is a resident, proof of the successful completion of appropriate courses of study required for renewal, as established by the Commissioner by regulation.

2. The fees specified in this section are not refundable.

Sec. 23. NRS 684A.090 is hereby amended to read as follows:

684A.090 1. The applicant for a license as an adjuster shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. As part of, or in connection with, the application, the applicant shall furnish information as to his identity, personal history, experience, financial responsibility, business record and other

pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a firm or corporation, the application must also include the names of all firm members, all corporate officers and directors, and shall designate each individual who is to exercise the license powers. Each such member, officer, director and individual shall furnish information to the Commissioner as though applying for an individual license.

4. If the applicant is a nonresident of this state, the application must be accompanied by an appointment of the Commissioner as process agent and agreement to appear pursuant to NRS 684A.200.

5. The application must be accompanied by the applicable license fee as specified in NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

6. No applicant for such a license may willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith. A violation of this subsection is a gross misdemeanor.

Sec. 24. NRS 684A.130 is hereby amended to read as follows:

684A.130 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner and submission of the statement required pursuant to NRS 684A.143 if the licensee is a natural person. The statement, if required, must be submitted and ~~[the fee]~~ *all applicable fees* must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by:

(a) A fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[;]~~ *, except for any fee required pursuant to section 3 of this act;* and

(b) If the person requesting renewal is a natural person, the statement required pursuant to NRS 684A.143.

3. This section does not apply to temporary licenses issued under NRS 684A.150.

Sec. 25. NRS 684A.140 is hereby amended to read as follows:

684A.140 1. Concurrently with an application for a license or for renewal of a license as an adjuster, the applicant or licensee must provide an appointment for each associate adjuster employed by him or to be employed by him contingent upon issuance of the license. Each person who desires to become licensed as an associate adjuster must submit an application to the Commissioner for such a license. The application must include the social security number of the applicant.

2. Upon payment of ~~[the appropriate fee,]~~ *all applicable fees,* the Commissioner shall issue and deliver to a licensed adjuster a license for each associate authorized by the State to act on behalf of the licensee. The Commissioner shall not issue a license as an associate adjuster to a person who is licensed as a producer of insurance for property, casualty or surety or a surplus lines broker.

3. The license of an associate adjuster may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee.]~~ *fees.* His license terminates at the same time as the license of the employing adjuster unless, within 30 days after the termination of the license, the associate adjuster submits to the Commissioner ~~[the]~~ *all* applicable ~~[fee]~~ *fees* and a request to be employed by another employing adjuster. The Commissioner shall promptly terminate an associate adjuster's license upon written request therefor by the employing adjuster.

4. A person shall not act as or hold himself out in this State to be an associate adjuster unless he holds a current license as such issued to him by the Commissioner. A violation of this provision is a gross misdemeanor.

Sec. 26. NRS 684B.020 is hereby amended to read as follows:

684B.020 1. No person may act as a motor vehicle physical damage appraiser for motor vehicle physical damage claims on behalf of any insurance company or business organization engaged in the adjustment or appraisal of motor vehicle claims unless he has:

(a) Secured a license from the Commissioner.

(b) Paid ~~[the]~~ *all* applicable license ~~[fee.]~~ *fees.*

2. Any person who has been engaged in the business as a motor vehicle physical damage appraiser for a period of 2 consecutive years immediately before January 1, 1972, is entitled to a license upon application to the Commissioner without further qualification.

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

(a) A licensed insurance adjuster.

(b) An employee of any authorized insurer, motor club, motor vehicle dealer or automobile body repair shop.

4. A person who acts as a motor vehicle physical damage appraiser in this state without a license, unless exempt under subsection 3, is subject to an administrative fine of not more than $1,000 for each violation.

Sec. 27. NRS 684B.040 is hereby amended to read as follows:

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser must file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant must furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a business organization, the application must include the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

4. The application must be accompanied by ~~[the]~~ *all* applicable license ~~[fee.]~~ *fees.* The Commissioner shall charge ~~[a]~~ separate ~~[fee]~~ *fees* for each person authorized to act for a business organization.

5. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive.

6. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

Sec. 28. NRS 684B.060 is hereby amended to read as follows:

684B.060 1. If the Commissioner finds that the application is complete and the applicant is otherwise eligible and qualified for the license as a motor vehicle physical damage appraiser, the Commissioner shall promptly issue the license. If the Commissioner refuses to issue the license he shall promptly notify the applicant in writing of the refusal, stating the grounds for the refusal.

2. If the license is refused, the Commissioner shall promptly refund to the applicant ~~[the]~~ *any refundable* license ~~[fee]~~ *fees* tendered with the application.

Sec. 29. NRS 684B.080 is hereby amended to read as follows:

684B.080 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner and submission of the statement required pursuant to NRS 684B.083 if the licensee is a natural person. The statement, if required, must be submitted and ~~[the fee]~~ *all applicable fees* must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the statement required pursuant to NRS 684B.083 if the person requesting renewal is a natural person.

Sec. 30. NRS 685A.070 is hereby amended to read as follows:

685A.070 1. A broker shall not knowingly place surplus lines insurance with an insurer which is unsound financially or ineligible pursuant to this section.

2. Except as otherwise provided in this section, an insurer is not eligible to accept surplus lines risks pursuant to this chapter unless it has surplus as to policyholders in an amount of not less than $15,000,000 and, if an alien insurer, unless it has and maintains in a bank or trust company which is a member of the United States Federal Reserve System a trust fund established pursuant to terms that are reasonably adequate to protect all of its policyholders in the United States. Such a trust fund must not have an expiration date which is at any time less than 5 years in the future, on a continuing basis. In the case of:

(a) A single alien insurer, such a trust fund must not be less than the greater of $5,400,000 or 30 percent of the gross liabilities of the alien insurer for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance, not to exceed $60,000,000, to be determined annually on the basis of accounting practices and procedures that are substantially equivalent to the accounting practices and procedures applicable in this State as of December 31 of the year immediately preceding the date of the determination where:

(1) The liabilities are maintained in an irrevocable trust account in a qualified financial institution in the United States, on behalf of policyholders in the United States, consisting of cash, securities, letters of credit or any other investments of substantially the same character and quality as investments that are eligible investments pursuant to chapter 682A of NRS for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this State. The trust fund, which must be included in any calculation of capital and surplus or its equivalent, must comply with the requirements set forth in the Standard Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners;

(2) The alien insurer may request approval by the Commissioner to use the trust fund to pay any valid claim against a surplus line if the balance of the trust fund is not, during any period, less than $5,400,000 or 30 percent of the alien insurer's current gross liabilities for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance; and

(3) In calculating the amount of the trust fund required by this subsection, credit must be given for any deposits for any surplus lines that are separately required and maintained within a state or territory of the United States, not to exceed the amount of the alien insurer's loss and loss adjustment reserves maintained in that state or territory.

(b) A group of insurers which includes individual unincorporated insurers, such a trust fund must not be less than $100,000,000.

(c) A group of incorporated insurers under common administration, such a trust fund must not be less than $100,000,000. Each insurer within the group must individually maintain capital and surplus of not less than $25,000,000. The group of incorporated insurers must:

(1) Operate under the supervision of the Department of Trade and Industry of the United Kingdom;

(2) Possess aggregate policyholders surplus of $10,000,000,000, which must consist of money in trust in an amount not less than the assuming insurers' liabilities attributable to insurance written in the United States; and

(3) Maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

(d) An insurance exchange created by the laws of a state, the insurance exchange shall have and maintain a trust fund in an amount of not less than $75,000,000 or have a surplus as to policyholders in an amount of not less than $75,000,000. If an insurance exchange maintains money for the protection of all policyholders, each syndicate shall maintain minimum capital and surplus of not less than $15,000,000 and must qualify separately to be eligible for the acceptance of surplus lines risks pursuant to this chapter. ➥ The Commissioner may require larger trust funds or surplus as to policyholders than those set forth in this section if, in his judgment, the volume of business being transacted or proposed to be transacted warrants larger amounts.

3. An insurer is not eligible to write surplus lines of insurance unless it has established a reputation for financial integrity and satisfactory practices in underwriting and handling claims. In addition, a foreign insurer must be authorized in the state of its domicile to write the kinds of insurance which it intends to write in Nevada.

4. The Commissioner may from time to time compile or approve a list of all surplus lines insurers deemed by him to be eligible currently, and may mail a copy of the list to each broker at his office last of record with the Commissioner. To be placed on the list, a surplus lines insurer must file an application with the Commissioner. The application must be accompanied by a nonrefundable fee of $2,450 ~~.~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act. To remain on the list, a surplus line insurer must pay, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* This subsection does not require the Commissioner to determine the actual financial condition or claims practices of any unauthorized insurer. The status of eligibility, if granted by the Commissioner, indicates only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by him.

Sec. 31. NRS 685A.120 is hereby amended to read as follows:

685A.120 1. No person may act as, hold himself out as or be a surplus lines broker with respect to subjects of insurance resident, located or to be performed in this State or elsewhere unless he is licensed as such by the Commissioner pursuant to this chapter.

2. Any person who has been licensed by this State as a producer of insurance for general lines for at least 6 months, or has been licensed in another state as a surplus lines broker and continues to be licensed in that state, and who is deemed by the Commissioner to be competent and trustworthy with respect to the handling of surplus lines may be licensed as a surplus lines broker upon:

(a) Application for a license and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for a license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305;

(b) Submitting the statement required pursuant to NRS 685A.127; and

(c) Passing any examination prescribed by the Commissioner on the subject of surplus lines.

3. An application for a license must be submitted to the Commissioner on a form designated and furnished by him. The application must include the social security number of the applicant.

4. A license issued pursuant to this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. The license may be renewed upon submission of the statement required pursuant to NRS 685A.127 and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305 to the Commissioner on or before the last day of the month in which the license is renewable.

5. A license which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by:

(a) The statement required pursuant to NRS 685A.127;

(b) ~~[The]~~ *All* applicable ~~[fee]~~ *fees* for renewal;

(c) A penalty in an amount that is equal to 50 percent of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal ~~[;]~~ *, except for any fee required pursuant to section 3 of this act;* and

(d) A fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account created by NRS 679B.305.

Sec. 32. NRS 686A.360 is hereby amended to read as follows:

686A.360 1. An application for a license to engage in the business of a company must be filed with the Commissioner on a form prescribed by him and must include:

(a) A nonrefundable fee for application and for investigation of the applicant of $500 ~~[;]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act;*

(b) A surety bond payable to the State of Nevada in the amount of $50,000, executed by a surety company which is authorized to do business in Nevada;

(c) A current certified financial statement or another financial statement if individually approved by the Commissioner;

(d) An appointment of the Commissioner and his successors in office as the applicant's attorney to receive service of process; and

(e) If the applicant is a corporation, a copy of its articles of incorporation.

2. The applicant shall provide the Commissioner with any material change concerning information contained in the application within 10 days after the change occurs.

Sec. 33. NRS 686A.380 is hereby amended to read as follows:

686A.380 1. A company must renew its license on or before March 1 of each year. An application for renewal must be submitted on a form prescribed by the Commissioner and must be accompanied by:

(a) A financial statement for the preceding year; and

(b) A fee of $500 , ~~[and]~~ any penalty imposed pursuant to subsection 2 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. The Commissioner may grant an extension allowing a company to file an application for renewal after March 1 if the company shows that for reasons beyond its control it cannot apply before that date. If a company which has not been granted an extension files its application for renewal after March 1, the company shall pay a penalty of $25 for each day the application is late.

Sec. 34. NRS 686B.140 is hereby amended to read as follows:

686B.140 1. A rate service organization or an advisory organization applying for a license as required by NRS 686B.130 must include with its application:

(a) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its bylaws, plan of operation and any other rules or regulations governing the conduct of its business;

(b) A list of its membership and subscribers;

(c) The name and address of one or more residents of this State upon whom notices, process affecting it or orders of the Commissioner may be served;

(d) A statement showing its technical qualifications for acting in the capacity for which it seeks a license;

(e) If the applicant is a natural person who wishes to obtain a license as a rate service organization, the statement required pursuant to NRS 686B.143;

(f) Any other relevant information and documents that the Commissioner may require; and

(g) ~~[The]~~ *All* applicable ~~[fee.]~~ *fees.*

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. Every organization which has applied for a license pursuant to subsection 1 shall thereafter promptly notify the Commissioner of every material change in the facts or in the documents on which its application was based.

4. If the Commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy and technically qualified to provide the services proposed, and that all requirements of law are met, he shall issue a license specifying the authorized activity of the applicant. He shall not issue a license if the proposed activity would tend to create a monopoly or to lessen or destroy competition in prices.

5. A license issued pursuant to this section continues in effect until the licensee leaves the State or until the license is suspended, revoked or otherwise terminated. A license may be renewed upon:

(a) If the licensee is a natural person who has been issued a license as a rate service organization, submission of the statement required pursuant to NRS 686B.143 and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day on which the license is renewable; or

(b) If the licensee is an advisory organization or a rate service organization that is not a natural person, payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day on which the license is renewable.

6. A license which is not renewed annually expires on March 1. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by:

(a) If the licensee is a natural person who has been issued a license as a rate service organization, the statement required pursuant to NRS 686B.143 and a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act;* or

(b) If the licensee is a rate service organization that is not a natural person or is an advisory organization, a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

7. Any amendment to a document filed pursuant to paragraph (a) of subsection 1 must be filed at least 30 days before it becomes effective. Failure to comply with this subsection is a ground for revocation of the license granted pursuant to subsection 4.

Sec. 35. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 36, 37 and 38, inclusive, of this act.

Sec. 36. *An insurer or other organization providing health coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C, 695D or 695F of NRS shall comply with the provisions of the Genetic Information Nondiscrimination Act of 2008, Public Law 110-233, and any federal regulations issued pursuant thereto.*

Sec. 37. *An insurer or other organization providing health coverage pursuant to chapter 689B, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto.*

Sec. 38. *An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of Michelle's Law, Public Law 110-381, and any federal regulations issued pursuant thereto.*

*Sec. 38.105.* *NRS 687B.040 is hereby amended to read as follows:*

687B.040 1. Any natural person of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But a person shall not procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under the contract are payable to the person insured or his personal representatives, or to a person having, at the time when the contract was made, an insurable interest in the person insured.

2. *A trust shall not procure, cause to be procured or hold an insurance contract upon the life of a person unless each beneficiary of the trust:*

*(a) Has an insurable interest in the person insured; or*

*(b) Is a charitable, benevolent, educational or religious institution, or an agency thereof, and is designated irrevocably as a beneficiary of the trust.*

*3.* If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the person insured, the person insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

~~[3.]~~ *4.* As used in this section, "insurable interest" as to such personal insurance means that every person has an insurable interest in the life, body and health of himself, and of other persons as follows:

(a) In the case of persons related closely by blood or by law, a substantial interest engendered by love and affection; and

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the person insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the person insured.

~~[4.]~~ *5.* Before, on or after January 1, 1972, an individual party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a corporation or of an interest in such shares, has an insurable interest in the life, body and health of each individual party to the contract and for the purposes of the contract only, in addition to any insurable interest which may otherwise exist as to the person.

~~[5.]~~ *6.* An insurer is entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest of the applicant in the insured. An insurer does not incur legal liability except as otherwise set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

*Sec. 38.12.* *Chapter 688C of NRS is hereby amended by adding thereto the provisions set forth as sections 38.13 to 38.28, inclusive, of this act.*

*Sec. 38.13.* *"Rescission period" means the shorter period of 60 days after the date on which a viatical settlement is signed by all parties thereto or 30 days after the viator receives the proceeds from that viatical settlement.*

*Sec. 38.14.* *"Viatical settlement investment" has the meaning ascribed to it in section 97.74 of this act.*

*Sec. 38.15.* *"Viatical settlement investment agent" or "investment agent of viatical settlements" means a person who is appointed by or contracts with a licensed provider of viatical settlements to solicit or arrange for the funding for the purchase of a viatical settlement by a purchaser of viatical settlements on behalf of the provider of viatical settlements.*

*Sec. 38.16.* *"Viatical settlement purchase agreement" means a contract or agreement to which the viator is not a party, and which is entered into by a purchaser of viatical settlements to purchase a life insurance policy or an interest in a life insurance policy for the purpose of deriving an economic benefit.*

*Sec. 38.17.* *A financial planner, as defined in subsection 3 of NRS 628A.010, who, on behalf of a viator and for a fee, commission or other valuable consideration not paid by a provider or purchaser of viatical settlements, offers or attempts to negotiate a viatical settlement between the viator and one or more providers or brokers of viatical settlements must be licensed as an insurance consultant pursuant to NRS 683C.020.*

*Sec. 38.18.* *1. Persons engaged in the business of viatical settlements are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:*

*(a) NRS 679B.230 to 679B.300, inclusive, concerning examinations of insurers.*

*(b) NRS 679B.310 to 679B.370, inclusive, concerning hearings regarding insurers and employees of insurers.*

*(c) Chapter 680A of NRS.*

*(d) Chapter 683A of NRS.*

*(e) NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.*

*2. Nothing in this chapter or elsewhere in this title preempts or otherwise limits the provisions of chapter 90 of NRS, or of any rules, regulations or orders issued by or through the Administrator of the Securities Division of the Office of the Secretary of State or the Administrator's designee acting pursuant to the authority granted by chapter 90 of NRS.*

*3. Compliance with the provisions of this chapter does not constitute compliance with any applicable provisions of chapter 90 of NRS or with any rule, regulation or order adopted or issued thereunder.*

*Sec. 38.19.* *A viatical settlement investment agent is deemed to represent the provider of viatical settlements who appointed or contracted with the viatical settlement investment agent.*

*Sec. 38.20. A viatical settlement investment agent shall not:*

*1. Have knowledge of the identity of; or*

*2. Communicate either directly or indirectly with,*

*➥ a viator or an insured whose policy of insurance is the object of a viatical settlement for which the viatical settlement investment agent solicits or arranges for the funding for the purchase.*

*Sec. 38.21. 1. Before the date on which an agreement to purchase a viatical settlement is signed by all parties thereto, the provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide the purchaser of viatical settlements with the following disclosures:*

*(a) A statement that the purchaser will receive no return on the viatical settlement investment, including dividends and interest, until the insured has died and a claim for a death benefit is made pursuant to the viaticated policy.*

*(b) A statement that the actual annual rate of return on a viatical settlement is dependent upon an accurate projection of the life expectancy of the insured and that a guaranteed annual rate of return is not determinable.*

*(c) A statement that a viaticated policy is not a liquid asset.*

*(d) A statement that the purchaser may lose all, or a substantial portion, of the benefits of the viaticated policy if the insurer who issued the policy goes out of business during the term of the viatical settlement investment.*

*(e) A statement that the purchaser is responsible for the payment of premiums and other costs related to the viaticated policy, including, without limitation, premiums and costs if the insured returns to health, and that those payments may reduce the purchaser's return on the viatical settlement investment.*

*(f) A statement as to whether the purchaser is entitled to a refund of all or a part of his payment pursuant to the viatical settlement investment if the viaticated policy is later determined to be void.*

*(g) A statement that a group insurance policy may contain provisions:*

*(1) Limiting or negating rights of conversion if the policy is terminated and replaced by another policy; and*

*(2) Requiring the payment of additional premiums if the policy is converted. If the group insurance policy requires a payment of additional premiums if the policy is converted, a disclosure statement pursuant to this subparagraph must also identify the name of the party responsible for the payment of the additional premiums.*

*(h) The cost of the premium to be paid by the purchaser.*

*(i) The costs of any fees or other expenses to be paid by the purchaser.*

*(j) The name, business address and telephone number of the designated independent escrow agent.*

*(k) The relationship between the designated independent escrow agent and the broker of viatical settlements.*

*(l) The risks associated with contestability of the policy, including, without limitation, the risk that the purchaser will have no claim or a limited claim to*

*death benefits if the insurer rescinds the policy during the period of contestability.*

*(m) A statement as to whether the purchaser will be the owner of the policy in addition to being the beneficiary and, if the purchaser is the beneficiary only and not also the owner, the additional risks associated with that status, including, without limitation, the risk that the beneficiary may be changed or the premium may not be paid.*

*(n) A description of the experience and qualifications of the person who projects the life expectancy of the insured, the information on which the projection is based and the relationship, if any, between the person who makes the projection and the provider of viatical settlements.*

*2. The provider of viatical settlements or the viatical settlement investment agent shall also provide to the purchaser of viatical settlements a brochure that describes the process of investment in viatical settlements. The form of the brochure created by the National Association of Insurance Commissioners must be used unless an alternate is developed by the Commissioner.*

*Sec. 38.22. Not later than the date of assignment, transfer or sale of all or a portion of a viaticated policy, a provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide a purchaser of a viatical settlement with the following disclosures:*

*1. All certifications relating to the life expectancy of the viator that were obtained by the provider of viatical settlements in the process of determining the price that was paid to the viator.*

*2. A statement as to whether premium payments or money for the payment of other costs related to the policy has been deposited in an escrow account.*

*3. If payments or money has been deposited in an escrow account, a statement of the date that the escrow account will be depleted and as to whether the purchaser of viatical settlements will be responsible for payment of premiums thereafter and, if so, a statement of the amount of the premiums.*

*4. A statement as to whether premiums or other costs related to the policy have been waived.*

*5. If premiums or other costs have been waived, a statement as to whether the purchaser will be responsible for payment of the premiums if the insurer that issued the policy terminates the waiver after the purchase, and a statement of the amount of the premiums.*

*6. The type of policy offered or sold, any additional benefits included with the policy and the status of the policy.*

*7. If the policy is term insurance, a statement of the additional risks associated with term insurance, including, without limitation, the purchaser's responsibility for additional premiums if the viator renews the policy at the end of the term which is effective at the time of the purchase.*

*8. The period of contestability, if any, remaining under the policy.*

*9. A statement of rights held by the insurer that could negatively affect or extinguish the rights of the purchaser of viatical settlements and the conditions under which the rights can be exercised.*

*Sec. 38.23. Disclosures made pursuant to sections 38.21 and 38.22 of this act must be printed conspicuously in at least 12-point type in any contract or in a separate document signed by the purchaser of viatical settlements and:*

*1. The provider of viatical settlements; or*

*2. The viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements.*

*Sec. 38.24. If a broker or provider of viatical settlements is a party to a plan, a transaction or a series of transactions to originate, renew or continue a policy of life insurance for the purpose of engaging in the business of viatical settlements before or during the first 5 years after the issuance of the policy, the broker or provider shall fully disclose the plan, transaction or transactions to the issuer of the policy.*

*Sec. 38.25. With respect to a viatical settlement or a policy of insurance:*

*1. A broker of viatical settlements shall not knowingly solicit an offer from, effectuate a viatical settlement with or make a sale to any provider, purchaser or investment agent of viatical settlements who:*

*(a) Controls;*

*(b) Is controlled by; or*

*(c) Is under common control with,*

*the broker of viatical settlements.*

*2. A provider of viatical settlements shall not knowingly enter into a viatical settlement with a viator if, in connection with that viatical settlement, anything of value will be paid to a broker of viatical settlements who controls, is controlled by or is under common control with a provider, purchaser or investment agent of viatical settlements who is involved in the viatical settlement.*

*Sec. 38.26. An insurer shall not, as a condition of responding to a request for verification of coverage or of effecting the transfer of a policy pursuant to a viatical settlement, require that the viator, insured, provider or broker of viatical settlements sign a form or disclosure that has not been expressly approved by the Commissioner for use in connection with a viatical settlement in this State.*

*Sec. 38.27. The Commissioner may place a broker or investment agent of viatical settlements on probation if the Commissioner finds that the broker or investment agent of viatical settlements has acted in bad faith with regard to a viator.*

*Sec. 38.28. 1. If the Commissioner finds that a producer of life insurance has violated a provision of this chapter or other applicable provisions or has acted in bad faith with regard to a viator, the Commissioner may:*

*(a) Refuse to:*

*(1) Issue a license to the producer of life insurance; or*

*(2) Renew a license of the producer of life insurance;*

*(b) Suspend the producer of life insurance for a period not to exceed 12 months; or*

*(c) Place the producer of life insurance on probation.*

*2. If the Commissioner takes action as described in paragraphs (a), (b) or (c) of subsection 1, the producer of life insurance may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.*

*Sec. 38.29. NRS 688C.010 is hereby amended to read as follows:*

688C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 688C.020 to 688C.150, inclusive, *and sections 38.13 to 38.16, inclusive, of this act* have the meanings ascribed to them in those sections.

*Sec. 38.30. NRS 688C.020 is hereby amended to read as follows:*

688C.020 "Advertising" means a written, electronic or printed communication or a communication by recorded telephone message, radio, television, the Internet or a similar medium of communication, including a film strip, motion picture or videotape, published, communicated or otherwise placed before the public to create an interest in, or induce a person to *purchase or* sell a policy of life insurance pursuant to, a viatical settlement.

*Sec. 38.31. NRS 688C.030 is hereby amended to read as follows:*

688C.030 "Broker of viatical settlements" means a person who on behalf of a viator and for a fee, commission or other valuable consideration offers or attempts to negotiate a viatical settlement between the viator and one or more providers *or brokers* of viatical settlements. The term does not include an attorney at law, certified public accountant or financial planner accredited by a nationally recognized accrediting agency who is retained by the viator and whose compensation is not paid by a provider or purchaser of viatical settlements.

*Sec. 38.32. NRS 688C.080 is hereby amended to read as follows:*

688C.080 "Provider of viatical settlements" means a person other than a viator who enters into or effectuates a viatical settlement. The term does not include:

1. A bank, savings and loan association, thrift company, credit union or other licensed lender that takes an assignment of a policy as security for a loan;

2. The issuer of a policy that provides accelerated benefits pursuant to the contract;

3. An authorized or eligible insurer that provides stop-loss coverage to a provider or purchaser of viatical settlements;

4. A natural person who enters into no more than one agreement in a calendar year for the transfer of policies for a value less than the expected death benefit;

5. A financing agent;

6. A special organization; *or*

7. ~~[A trust for a related provider; or~~

~~8.]~~ A purchaser of viatical settlements.

*Sec. 38.33.* *NRS 688C.090 is hereby amended to read as follows:*

688C.090 *1.* "Purchaser of viatical settlements" means ~~[a]~~ *:*

*(a) A* person who gives a sum of money as consideration for a policy or an interest in the death benefits of a policy ~~[, or a]~~ *;*

*(b) A* person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract *as described in subsection 2 of NRS 687B.040;* or

*(c) A person who* is the beneficiary of a policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit.

*2.* The term does not include:

~~[1.]~~ *(a)* A person licensed pursuant to this chapter;

~~[2.]~~ *(b)* An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

~~[3.]~~ *(c)* A financing agent; *or*

~~[4.]~~ *(d)* A special organization. ~~[; or~~

~~5. A trust for a related provider.]~~

*Sec. 38.34.* *NRS 688C.130 is hereby amended to read as follows:*

688C.130 "Viatical settlement" means a written agreement *between a viator and a provider of viatical settlements or an affiliate thereof* for the payment of money, or anything else of value, which is less than the expected death benefit of a policy, in exchange for the viator's assignment, sale, transfer or devise of the death benefit or ownership of any portion of the policy. The term includes ~~[:~~

~~1. An agreement for a loan or other financing secured primarily by a policy, other than a loan by an insurer pursuant to or secured by the cash value of a policy; and~~

~~2. An]~~ *an* agreement to transfer ownership or change the beneficiary, in the future, regardless of the date of payment to the viator.

*Sec. 38.35.* *NRS 688C.150 is hereby amended to read as follows:*

688C.150 *1.* "Viator" means the owner of a policy or the holder of a certificate of insurance under a policy of group insurance ~~[.]~~ *who resides in this State and who enters or seeks to enter into a viatical settlement.* The term is not limited to an owner who is terminally or chronically ill except where that limitation is expressly provided.

*2. The term does not include:*

*(a) A producer of life insurance acting as a broker of viatical settlements pursuant to this chapter;*

*(b) A qualified institutional buyer as defined in Rule 144A of the federal Securities Act of 1933, 15 U.S.C. 77a et seq., as amended;*

*(c) A financing agent; or*

*(d) A special organization.*

*Sec. 38.36. NRS 688C.160 is hereby amended to read as follows:*

688C.160 If there is more than one viator *or purchaser of viatical settlements* with respect to a single policy and they are residents of different states, *one of whom resides in this State and enters or seeks to enter into a viatical settlement or an agreement to purchase a viatical settlement,* the legal effect of ~~[a]~~ *the* viatical settlement *or agreement to purchase a viatical settlement, as applicable,* is governed by the law of the state in which the viator *or the purchaser* having the largest fractional ownership resides. If the viators *or purchasers of viatical settlements* own equal fractions, they may agree in writing to choose ~~[the]~~ *which* state *, among the states* in which ~~[one resides.]~~ *the viators or purchasers of viatical settlements reside, will be the state whose law will govern.*

Sec. 39. NRS 688C.190 is hereby amended to read as follows:

688C.190 1. Except as otherwise provided in NRS 688C.215, a person shall not, without first obtaining a license from the Commissioner, operate in or from this State as a provider or broker of viatical settlements.

2. Application for a license must be made to the Commissioner on a form prescribed by him, accompanied by ~~[the prescribed fee.]~~ *all applicable fees.* A license may be renewed from year to year on its anniversary by payment of ~~[the prescribed fee.]~~ *all applicable fees.* The license expires if ~~[the fee is]~~ *all applicable fees are* not paid by that date.

3. An applicant shall provide information on forms required by the Commissioner, who may at any time require the applicant to disclose the identity of all stockholders, partners, members, officers and employees. The Commissioner may refuse to issue a license to an organization if he is not satisfied that a stockholder, partner, member or officer who may materially influence the applicant's conduct satisfies the requirements of this chapter.

4. A license issued to an organization authorizes all partners, members, officers and designated employees to act as providers or brokers of viatical settlements. Those persons must be named in the application or a supplement to it.

*Sec. 39.1. NRS 688C.190 is hereby amended to read as follows:*

688C.190 1. Except as otherwise provided in NRS 688C.215, a person shall not, without first obtaining a license from the Commissioner, operate in or from this State as *an investment agent or* a provider or broker of viatical settlements.

2. Application for a license must be made to the Commissioner on a form prescribed by him, accompanied by the prescribed fee. A license may be

renewed from year to year on its anniversary by payment of the prescribed fee. The license expires if the fee is not paid by that date.

3. An applicant shall provide information on forms required by the Commissioner, who may at any time require the applicant to disclose the identity of all stockholders, partners, members, officers and employees. The Commissioner may refuse to issue a license to an organization if he is not satisfied that a stockholder, partner, member or officer who may materially influence the applicant's conduct satisfies the requirements of this chapter.

4. A license issued to an organization authorizes all partners, members, officers and designated employees to act as *investment agents or* providers or brokers of viatical settlements. Those persons must be named in the application or a supplement to it.

Sec. 40. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of ~~[the fee,]~~ *all applicable fees,* the Commissioner shall investigate the applicant, and issue a license if he finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies him in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements, has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

*Sec. 40.1. NRS 688C.200 is hereby amended to read as follows:*

688C.200 1. Upon the filing of an application and payment of the fee, the Commissioner shall investigate the applicant, and issue a license if he finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies him in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements ~~[, has]~~ *:*

*(1) Has* included a plan to prevent fraud which satisfies the requirements of NRS 688C.490 ~~[.]~~ *; and*

*(2) Has demonstrated evidence of financial responsibility through either:*

*(I) A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than $250,000; or*

*(II) A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of $250,000.*

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

*4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a broker of viatical settlements.*

*5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:*

*(a) Erroneous acts;*

*(b) Failure to act; or*

*(c) Conviction of:*

*(1) Fraud; or*

*(2) Unfair practices,*

*➥ by the provider or broker of viatical settlements.*

*6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time he deems necessary.*

*Sec. 40.39. NRS 688C.210 is hereby amended to read as follows:*

688C.210 *1.* After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

~~[1.]~~ *(a)* There was material misrepresentation in the application for the license;

~~[2.]~~ *(b)* The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices,

is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

~~[3.]~~ *(c)* A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;

~~[4.]~~ *(d)* The applicant or licensee has been found guilty or guilty but mentally ill of, or pleaded guilty, guilty but mentally ill or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

~~[5.]~~ *(e)* A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

~~[6.]~~ *(f)* A provider of viatical settlements has failed to honor obligations of a viatical settlement ~~[;~~

~~7.]~~ *or an agreement to purchase a viatical settlement;*

*(g)* The licensee no longer meets a requirement for initial licensure;

~~[8.]~~ *(h)* A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement ~~[,]~~ *or* a special organization ~~[or a trust for a related provider;~~

~~9.]~~ *:*

*(i)* The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

~~[10.]~~ *(j)* The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; ~~[or~~

~~11.]~~ *(k)* The applicant or licensee has violated a provision of this chapter ~~[.]~~ *or other applicable provisions; or*

*(l) The applicant or licensee has acted in bad faith with regard to a viator.*

*2. A suspension imposed for grounds set forth in paragraph (k) or (l) of subsection 1 must not exceed a period of 12 months.*

*3. If the Commissioner takes action as described in subsection 1, the applicant or licensee may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.*

*Sec. 40.40. NRS 688C.215 is hereby amended to read as follows:*

688C.215 1. A natural person who has been licensed for at least 1 year and who is in good standing as a resident or nonresident producer of insurance with a life insurance qualification is not required to be licensed as *an investment agent or* a broker of viatical settlements.

2. A licensed producer of insurance specified in subsection 1 must register with the Division not more than 30 days after first operating as *an investment agent or* a broker of viatical settlements, on a form prescribed by the Commissioner, and pay the fee for registration pursuant to NRS 680B.010. Failure to register within the required period or late payment

of or failure to pay the fee may result in the imposition of an administrative fine of not more than $500.

3. A producer of insurance who acts as *an investment agent or* a broker of viatical settlements pursuant to subsection 1 shall comply with the provisions of NRS 688C.220 to 688C.250, inclusive, and 688C.310.

*Sec. 40.41. NRS 688C.230 is hereby amended to read as follows:*

688C.230 1. Each licensee under this chapter shall file with the Commissioner on or before March 1 of each year an annual statement containing such information as the Commissioner prescribes by regulation. *Pursuant to subsection 7 of NRS 679B.190, the Commissioner shall classify as confidential any information received pursuant to this subsection that is:*

*(a) Data of individual transactions in the business of viatical settlements; or*

*(b) Data that could compromise the privacy of personal, financial or health information of a viator or insured.*

2. Except as allowed or required by a statute other than this chapter, a provider or broker of viatical settlements, *an investment agent,* an insurer, a producer of insurance, an information bureau, a rating agency or any other person knowing the identity of an insured shall not disclose that identity as an insured to any other person unless the disclosure is:

(a) Necessary to effect a viatical settlement between the viator and a provider of viatical settlements and the viator and the insured have given prior written consent to the disclosure;

(b) *Necessary to effect an agreement for the purchase of a viatical settlement between the purchaser and a provider of viatical settlements, and the viator and the insured have given prior written consent to the disclosure;*

*(c)* Furnished in response to an investigation or examination by the Commissioner or another governmental officer or agency;

~~[(c)]~~ *(d)* A term of or condition to the transfer of a policy by one provider of viatical settlements to another provider; or

~~[(d)]~~ *(e)* Necessary to permit a financing agent to finance the purchase of a policy by a provider of viatical settlements and the insured has given prior written consent to the disclosure.

*Sec. 40.42. NRS 688C.250 is hereby amended to read as follows:*

688C.250 1. With each application for a viatical settlement, a provider or broker of viatical settlements shall furnish to the viator at least the following disclosures *, in at least 12-point type,* no later than the time the application for the settlement is signed by all the parties, in a separate document signed by the viator and the provider or broker:

(a) *A broker of viatical settlements represents the viator exclusively, and not the insurer or the provider of viatical settlements, and owes a fiduciary duty to the viator, including a duty to act according to the instructions of the viator and in the best interest of the viator.*

*(b)* The possible alternatives to viatical settlement, including any accelerated death benefits or *policy* loans offered under the viator's *life insurance* policy.

~~[(b)]~~ *(c)* Some or all of the proceeds of the viatical settlement may be taxable under the federal income tax or a state franchise or income tax, and assistance should be sought from a professional tax adviser.

~~[(c)]~~ *(d)* Proceeds of the viatical settlement may be subject to the claims of creditors.

~~[(d)]~~ *(e)* Receipt of proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other governmental benefits, and advice should be sought from the appropriate governmental agencies.

~~[(e)]~~ *(f)* The viator has a right to ~~[terminate]~~ *rescind* a viatical settlement within ~~[15 days after his receipt of the proceeds,]~~ *the rescission period,* as provided in NRS 688C.300, and if the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~[terminated]~~ *deemed rescinded* and all proceeds must be repaid to the provider ~~[.~~

~~(f)]~~ *within 60 days after the death of the insured. Rescission, if exercised by the viator, is effective only if the viator:*

*(1) Gives notice of the rescission to the provider or broker of viatical settlements; and*

*(2) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,*

*within the rescission period.*

*(g)* Money will be sent to the viator within 3 business days after the provider has received the insurer's or group administrator's *written* acknowledgment that ownership of or interest in the policy has been transferred and the beneficiary has been designated.

~~[(g)]~~ *(h)* Entering into a viatical settlement may cause other rights, including conversion and waiver of premium, that may exist under the policy to be forfeited by the viator, and assistance should be sought from a financial adviser.

~~[(h)]~~ *(i)* A brochure is provided which describes the process of viatical settlement, in the form prescribed by the National Association of Insurance Commissioners unless the Commissioner prescribes a different form.

*(j) The name and address of the person responsible for monitoring the condition of the insured, the frequency of monitoring, the means of determining date of death and the means and time by which the date of death will be transmitted to the purchaser.*

2. The document in which the disclosures required by paragraphs (a) to ~~[(g),]~~ *(j),* inclusive, of subsection 1 are made must also contain the following:

All medical, financial and personal information solicited or obtained by a provider or broker of viatical settlements about an insured, including his identity and that of members of his family, a spouse or other relationship, may be disclosed as necessary to effect the viatical

settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. Failure to consent may affect your ability to viaticate your policy. The information may be furnished to someone who buys the policy or provides money for the purchase.

*Sec. 40.43.* *NRS 688C.260 is hereby amended to read as follows:*

688C.260 A provider of viatical settlements shall furnish to the viator, no later than the date the viatical settlement is signed by all parties, at least the following disclosures, *in at least 12-point type*, conspicuously displayed in the viatical settlement or in a separate document signed by the viator and the provider or broker of viatical settlements:

1. The affiliation, if any, between the provider *of viatical settlements* and the issuer of the policy to be viaticated.

2. The name, *business* address and telephone number of the provider [.] *of viatical settlements.*

3. [The amount and method of calculating the broker's commission, including anything of value paid or given to the broker for placing the policy.] *The name, business address and telephone number of the broker of viatical settlements.*

4. *The existence of any affiliations or contractual agreements between the provider and purchaser of viatical settlements and:*

*(a) The identity of that purchaser of viatical settlements; and*

*(b) If any contractual agreements exist between the provider and purchaser of viatical settlements, the identity of every party to those agreements.*

*5. The existence of any affiliations or contractual agreements between the broker of viatical settlements and any person making an offer in connection with the proposed viatical settlement and:*

*(a) The identity of the person making the offer and who has an affiliation or agreement with the broker of viatical settlements; and*

*(b) If any contractual agreements exist between the broker of viatical settlements and a person making an offer, the identity of every party to those agreements.*

*6.* If the policy to be viaticated was issued as a joint policy, contains family riders or covers a life other than that of the insured under it, any possible loss of coverage on the other lives under the policy, and that the viator should consult the producer of the insurance or the issuer of the policy for advice concerning the settlement.

[5.] *7.* The monetary amount of the current death benefit payable to the provider under the policy and, if known, the availability of any other guaranteed benefit, the monetary amount of any benefit for accidental death or dismemberment, and the [provider's] *extent to which the viator's* interest in those benefits [.

6.] *will be transferred as a result of the viatical settlement.*

*8.* The name, business address and telephone number of the escrow agent, and the right of the viator or owner to inspect or receive copies of the relevant escrow or trust agreements or related documents.

*9. A complete and accurate description of all offers, counteroffers, acceptances and rejections relating to the proposed viatical settlement.*

*10. The amount and method of calculation of compensation of the broker of viatical settlements, including, without limitation, anything of value paid or given to the broker of viatical settlements for the placement of the policy.*

*11. A statement indicating the source of any compensation of the broker of viatical settlements from a proposed offer for the viatical settlement, the total amount of the offer for the viatical settlement and the compensation of the broker of viatical settlements expressed as a percentage of the offer for the viatical settlement.*

*Sec. 40.44. NRS 688C.270 is hereby amended to read as follows:*

688C.270 1. A viator may not enter into a viatical settlement within ~~[2]~~ 5 years after the issuance of the policy to which the settlement relates unless one or more of the following conditions is or has been satisfied:

(a) The policy was issued upon the owner's exercise of a right of conversion arising out of a group policy ~~[.~~

~~(b) The owner of the policy is a charitable organization exempt from taxation under 26 U.S.C. 501(c)(3).~~

~~(c) The owner of the policy is a business organization.~~

~~(d)]~~ *if the total of the time covered under the policy plus the time covered under the group policy is at least 60 months. The time covered under the group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous.*

*(b)* The viator or owner submits to the provider of viatical settlements independent evidence that within the ~~[2 year]~~ *5-year* period:

(1) *The owner or insured has been diagnosed as terminally ill;*

*(2)* The owner or insured has been diagnosed ~~[to have]~~ *as chronically ill or has* an illness or condition that is life-threatening or requires a course of treatment for at least 2 years, long-term care or health care at home, or any combination of these;

~~[(2)]~~ *(3)* The spouse of the owner or insured has died;

~~[(3)]~~ *(4)* The owner or insured has divorced his spouse;

~~[(4)]~~ *(5)* The owner or insured has retired from full-time employment;

~~[(5)]~~ *(6)* The owner or insured has become physically or mentally disabled and a physician determines that the disability precludes him from maintaining full-time employment;

~~[(6) The owner of the policy was the employer of the insured and that relationship has terminated;]~~

(7) A final judgment or order has been entered or issued by a court of competent jurisdiction, on the application of a creditor or owner of the insured, adjudging the owner or insured bankrupt or insolvent, or approving a petition for reorganization of the owner or insured or appointing a receiver,

trustee or liquidator for all or a substantial part of the assets of the owner or insured; *or*

(8) The owner of the policy experiences a significant decrease in income which is unexpected by him and impairs his reasonable ability to pay the premium on the policy . ~~[; or~~

~~(9) The owner or insured disposes of his ownership in a closely held corporation.]~~

2. The independent evidence must be submitted to the insurer when the provider of viatical settlements submits a request to the insurer to effect transfer of the policy to him. The insurer shall respond timely to the request. This section does not prohibit an insurer from exercising its right to contest a policy on the ground of fraud.

3. If a provider of viatical settlements submits to an insurer a copy of the owner's or insured's certification that one of the events described in paragraph ~~[(d)]~~ *(b)* of subsection 1 has occurred, the certification conclusively establishes that the viatical settlement is valid, and the insurer shall timely respond to the provider's request to effect a transfer of the policy.

*Sec. 40.45. NRS 688C.280 is hereby amended to read as follows:*

688C.280 1. A provider of viatical settlements who enters into a settlement shall first obtain:

(a) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a settlement;

(b) A witnessed document in which the viator ~~[represents]~~ *:*

*(1) Consents to the viatical settlement;*

*(2) Represents* that he has a full and complete understanding of the settlement and of the benefits of the policy ~~[, acknowledges]~~ *;*

*(3) Acknowledges* that he has entered into the settlement freely and voluntarily *;* and ~~[, if]~~

*(4) If* applicable to determine a payment to a person terminally or chronically ill, acknowledges that he is terminally or chronically ill and that the illness was diagnosed after the policy was issued; and

(c) A document in which the insured consents to the release of his medical records to a provider or broker of viatical settlements and the insurer that issued the policy covering him.

2. Within 20 days after a viator executes documents necessary to transfer rights under a policy, or enters into an agreement in any form, express or implied, to viaticate the policy, the provider of viatical settlements shall give written notice to the issuer of the policy that the policy has or will become viaticated. The notice must be accompanied by: ~~[a]~~

*(a) A* copy of the release of medical records ~~[and the]~~ *;*

*(b) The* application for the viatical settlement ~~[.]~~ *; and*

*(c) A request for verification of coverage.*

*3. Any of the acts described in subsections 1 and 2, if performed by a broker of viatical settlements, will be deemed to have been performed by the*

*provider of viatical settlements for the purposes of fulfilling the requirements of subsections 1 and 2.*

*4. Within 30 days after receiving a request for verification of coverage from a provider or broker of viatical settlements, an insurer shall respond by:*

*(a) Verifying coverage; and*

*(b) Indicating whether, on the basis of the medical evidence and documents provided, the insurer intends to pursue an investigation regarding the validity of the insurance or possible fraud.*

*Sec. 40.46. NRS 688C.290 is hereby amended to read as follows:*

688C.290 1. A provider of viatical settlements shall instruct the viator to send the executed documents required to effect the change in ownership or assignment or change of beneficiary of the affected policy to a designated independent escrow agent. Within 3 business days after the date the escrow agent receives the documents, or within 3 business days after the provider receives the documents if by mistake they are sent directly to him, the escrow agent shall deposit the proceeds of the settlement into an escrow or trust account maintained in a regulated financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

2. Upon deposit of the proceeds in that account, the escrow agent shall deliver to the provider the original documents executed by the viator. Upon the provider's receipt from the insurer of an acknowledgment of the change in ownership or assignment or change of beneficiary of the affected policy, he shall instruct the escrow agent to pay the proceeds of the settlement to the viator.

3. Payment to the viator must be made within 3 business days after the date the provider received the acknowledgment from the insurer. Failure to make the payment within that time makes the viatical settlement voidable by the viator for lack of consideration until payment is tendered to and accepted by the viator. *Payment to the viator shall be deemed to have been made as of the date that the escrow agent:*

*(a) Releases money for a wire transfer to the viator; or*

*(b) Deposits a check for the amount of the proceeds with the United States Postal Service or with a commercially reasonable delivery service.*

*Sec. 40.47. NRS 688C.300 is hereby amended to read as follows:*

688C.300 *1.* A viatical settlement entered into in this state must reserve to the viator an unconditional right to ~~[terminate]~~ *rescind* the settlement within ~~[15 days after he receives the proceeds of the settlement.]~~ *the rescission period. Rescission, if exercised by the viator, is effective only if the viator:*

*(a) Gives notice of the rescission to the provider or broker of viatical settlements; and*

*(b) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,*

➥ *within the rescission period.*

*2.* If the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~[terminated, but the]~~ *deemed rescinded and all* proceeds *and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements* must be repaid to the provider of ~~[the]~~ viatical ~~[settlement.]~~ *settlements within 60 days after the death of the insured.*

*3. In the event of a rescission, if the provider of viatical settlements has paid commissions or other compensation to a broker of viatical settlements in connection with the rescinded transaction, the broker of viatical settlements shall refund all such commissions and compensation to the provider of viatical settlements within 5 business days following receipt of written demand from the provider of viatical settlements. The demand must be accompanied by:*

*(a) The viator's notice of rescission, if the rescission was exercised by the viator; or*

*(b) Notice of the death of the insured, if the rescission was due to the death of the insured within the rescission period.*

*4. A purchaser of viatical settlements has the right to rescind an agreement to purchase a viatical settlement within 3 business days after the purchaser of viatical settlements receives the disclosures set forth in sections 38.21 and 38.22 of this act.*

*Sec. 40.48. NRS 688C.310 is hereby amended to read as follows:*

688C.310 1. Contact with an insured to determine *his residential or business street address and telephone number or* the status of his health after a viatical settlement may be made only by a provider or broker of viatical settlements who is licensed in this state, or its authorized representative, and no oftener than once every 3 months if the insured has a life expectancy of 1 year or more, or once every month if the insured has a life expectancy of less than 1 year. The provider or broker shall explain the procedure for those contacts at the time the settlement is entered into.

2. The limitations of subsection 1 do not apply to contacts for purposes other than determining status of health.

3. A provider or broker is responsible for the acts of his authorized representative.

*Sec. 40.49. NRS 688C.330 is hereby amended to read as follows:*

688C.330 *1.* If a provider of viatical settlements transfers ownership or changes the beneficiary of a viaticated policy, he shall inform the insured of the transfer or change within 20 days after it occurs.

*2. If an insurer receives a request for change of ownership or beneficiary of a viaticated policy from a provider of viatical settlements, the insurer shall respond within 30 days after receipt thereof with written confirmation that the change has been effected or specifying the reasons why the requested change could not be effected.*

*3. An insurer shall not unreasonably delay in effecting a requested change of ownership or beneficiary requested for a viaticated policy by a provider of viatical settlements.*

*4. An insurer shall not seek to interfere with a viatical settlement lawfully entered into in this State.*

*Sec. 40.50. NRS 688C.350 is hereby amended to read as follows:*

688C.350 NRS 688C.350 to 688C.430, inclusive, *and sections 38.21, 38.22 and 38.23 of this act* apply to advertising of viatical settlements *, agreements to purchase viatical settlements* or related *products or* services intended for dissemination in this state, including advertising on the Internet which is viewed by persons in this state. To the extent that federal regulation establishes requirements for disclosure, those sections must be so interpreted as to eliminate or minimize conflict with the federal requirements.

*Sec. 40.51. NRS 688C.370 is hereby amended to read as follows:*

688C.370 *1.* An advertisement must be truthful and not misleading in fact or by implication. The form and content of an advertisement for viatical settlements *, agreements to purchase viatical settlements or related products or services* must be sufficiently complete and clear to avoid deception. An advertisement may not have a capacity or tendency to mislead or deceive, as determined by the Commissioner from the overall impression it may reasonably be expected to create upon a person of average education or intelligence in the segment of the public to which it is directed.

*2. A provider of viatical settlements shall not enter into a viatical settlement unless the promotional, advertising and marketing materials, in at least 12-point type, have been filed with the Commissioner pursuant to regulations adopted by the Commissioner. The Commissioner shall adopt such regulations as he deems necessary to carry out the provisions of this subsection.*

*Sec. 40.52. NRS 688C.380 is hereby amended to read as follows:*

688C.380 1. The information required to be disclosed under NRS 688C.350 to 688C.430, inclusive, *and sections 38.21, 38.22 and 38.23 of this act* may not be minimized, obscured, presented ambiguously or so intermingled with other text of an advertisement as to be confusing or misleading.

2. An advertisement may not omit material information or use language or illustrations if the omission or use has a capacity or tendency to, or does, mislead viators *, purchasers of viatical settlements or prospective purchasers of viatical settlements* as to the nature or extent of any benefit, loss covered, premium payable or effect on federal or state taxes. Making a viatical settlement *or an agreement to purchase a viatical settlement* available for inspection before it is consummated, or offering to refund payment if the viator is not satisfied within the period prescribed in *subsection 4 of* NRS 688C.300, does not remedy misleading statements.

3. An advertisement may not use the name or title of an insurer or policy unless the advertisement has been approved by the insurer.

4. *An advertisement may not represent that premiums on a viaticated policy need not be paid in order to maintain that policy, unless that is the fact.*

*5.* An advertisement may not state or imply that interest charged on an accelerated death benefit or loan on a policy is unfair or in any way improper.

~~[5.]~~ *6.* The words "free," "no additional cost" or words of similar import may not be used ~~[with]~~ *:*

*(a) With respect to insurance, unless the terms of the policy provide that the policy is provided without cost to the policyholder.*

*(b) With* respect to any benefit or service *other than insurance* unless true.

*7. Certain advertisements relating to viatical settlements are deemed to be false and misleading on their face and are prohibited. Those advertisements include, without limitation, the following words and phrases:*

*(a) "Guaranteed," "fully secured," "100 percent secured," "fully insured," "secure," "safe," "backed by rated insurance companies," "backed by federal law," "backed by state law" or "state guaranty funds";*

*(b) "No risk," "minimal risk," "low risk," "no speculation" or "no fluctuation";*

*(c) "Qualified or approved for individual retirement accounts (IRAs), Roth IRAs, 401(k) plans, simplified employee pensions (SEPs), 403(b) plans, Keogh plans, TSA, other retirement account rollovers" or "tax deferred";*

*(d) Utilization of the word "guaranteed" to describe a fixed return, annual return, principal, earnings, profits or investment;*

*(e) "No sales charges or fees";*

*(f) "High yield," "superior return," "excellent return," "high return" or "quick profit"; and*

*(g) Favorable representations or testimonials about the benefits of viatical settlement contracts and agreements to purchase viatical settlements as an investment, out of context and purported to have been taken from newspapers, trade papers, journals, radio and television programs and all other forms of print and electronic media,*

*➥ or similar representations.*

*Sec. 40.53. NRS 688C.390 is hereby amended to read as follows:*

688C.390 1. A testimonial, *endorsement,* appraisal or analysis used in an advertisement must be genuine, represent the present opinion of the author, apply to the viatical settlement *or agreement to purchase a viatical settlement* advertised, if any, and be reproduced with sufficient completeness to avoid misleading viators ~~[.]~~ *or purchasers of viatical settlements.* In using a testimonial, *endorsement,* appraisal or analysis, a licensee under this chapter makes the statements contained therein his own, and the statements must satisfy the requirements of NRS 688C.350 to 688C.430, inclusive ~~[.]~~ *, and sections 38.21, 38.22 and 38.23 of this act.*

2. If the person making a testimonial, *endorsement,* appraisal, analysis or endorsement has a financial interest in the provider of viatical settlements or

a related organization, or receives a benefit other than required wages, that fact must be prominently disclosed in the advertisement.

3. An advertisement may not state or imply that a *benefit or service related to a* viatical settlement [~~, benefit or service~~] *or an agreement to purchase a viatical settlement* has been approved or endorsed by a group, society or other organization unless that is the fact and any relationship between the organization and the provider of viatical settlements is disclosed. If the organization is owned, controlled or managed by the provider, or receives any payment or other consideration from the provider for making the endorsement or testimonial, that fact must be disclosed in the advertisement.

4. An advertisement may not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement must be identified.

*5. If an endorsement refers to benefits received under a viatical settlement or an agreement to purchase a viatical settlement, all information pertinent to that endorsement must be retained for a period of 5 years after the use of the endorsement.*

*Sec. 40.54. NRS 688C.410 is hereby amended to read as follows:*

688C.410 1. The name of the provider of viatical settlements must be clearly identified in an advertisement about him , [~~or~~] his viatical settlements [~~.~~] *or his agreements to purchase viatical settlements.* If a viatical settlement *or an agreement to purchase a viatical settlement* is advertised, it must be identified by number or other appropriate description. If an application is part of an advertisement, the name of the provider must be shown on the application.

2. An advertisement may not use a trade name, designation of a group, name of a parent or particular division of a provider of viatical settlements, service mark, slogan or other device or reference without disclosing the identity of the provider of viatical settlements licensed under this chapter if the advertisement would have the capacity or tendency to mislead as to his true identity or create the impression that an organization other than the licensee would have a responsibility for the financial obligation under a viatical settlement. The name of the licensee must be stated in all advertisements.

*Sec. 40.55. NRS 688C.420 is hereby amended to read as follows:*

688C.420 1. An advertisement may not use a combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristic are so similar to a combination of words, symbols or physical materials used by a governmental program or agency, or otherwise appear to be of such a nature, that they tend to mislead viators *or purchasers of viatical settlements* into believing that the solicitation is connected with a governmental program or agency. An advertisement may not create the impression that a provider of viatical settlements, his financial condition or business practices, the payment of his claims or the merit, desirability or

advisability of his viatical settlements *or agreements to purchase viatical settlements* is recommended or endorsed by a governmental authority.

2. An advertisement may state that a provider of viatical settlements is licensed in the state in which the advertisement appears, if it does not imply that competing providers are not so licensed. The advertisement may suggest consulting the licensee's website or communicating with the Commissioner to ascertain whether the state requires licensing and, if so, whether a particular provider or broker of viatical settlements is licensed.

*Sec. 40.56. NRS 688C.450 is hereby amended to read as follows:*

688C.450 It is a category D felony, and the offender shall be punished as provided in NRS 193.130, for any person, knowingly or with intent to defraud, to do any of the following acts in order to deprive another of property or for his own pecuniary gain:

1. Present, cause to be presented or prepare with knowledge or belief that it will be presented, false information to or by *an investment agent or* a provider or broker of viatical settlements, a financing agent, an insurer, a provider of insurance or any other person, or to conceal information, as part of, in support of or concerning a fact material to:

(a) An application for the issuance of a policy or viatical settlement;

(b) The underwriting of a policy or viatical settlement;

(c) A claim for payment or other benefit under a policy ~~, [or]~~ viatical settlement ~~[,]~~ *or agreement to purchase a viatical settlement;*

(d) A premium paid on a policy ~~[,]~~ *or as a result of an agreement to purchase a viatical settlement;*

(e) A payment or change of beneficiary or ownership pursuant to a policy or viatical settlement;

(f) The reinstatement or conversion of a policy;

(g) The solicitation, offer or effectuation of a policy ~~, [or]~~ viatical settlement ~~[,]~~ *or agreement to purchase a viatical settlement;* or

(h) The issuance of written evidence of a policy ~~, [or]~~ viatical settlement ~~[.]~~ *or agreement to purchase a viatical settlement.*

2. In furtherance of a fraud or to prevent detection of a fraud:

(a) Remove, conceal, alter, destroy or sequester from the Commissioner assets or records of a licensee under this chapter or other person engaged in the business of viatical settlements;

(b) Misrepresent or conceal the financial condition of a licensee, a financing agent, an insurer or other person;

(c) Transact the business of viatical settlements in violation of this chapter; or

(d) File with the Commissioner or analogous officer of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the Commissioner or other officer.

3. Present, cause to be presented or prepare with knowledge or belief that it will be presented to or by a provider or broker of viatical settlements, *an investment agent,* a financing agent, an insurer, a provider of insurance or

any other person, in connection with a viatical settlement or transaction of insurance, a policy fraudulently by the insured or owner or an agent of either.

4. Embezzle, steal, misappropriate or convert money, premiums, credits or other property *in an amount or having a value of less than $250* of a provider of viatical settlements, a viator, an insurer, an insured, an owner of a policy or other person engaged in the business of viatical settlements or insurance.

5. Attempt to commit, assist, aid, abet or conspire to commit an act or omission described in subsections 1 to 4, inclusive.

*6. Under no circumstances is a violation of this section considered or intended to be a lesser included offense of a violation of the provisions of NRS 90.570.*

*Sec. 40.57. NRS 688C.470 is hereby amended to read as follows:*

688C.470 1. Except as otherwise provided in subsection 2, a person furnishing information of the kind described in NRS 688C.460 is immune from liability and civil action if the information is furnished to or received from:

(a) The Commissioner or his employees, agents or representatives;

(b) Another federal, state or local law enforcement or regulatory officer or his employees, agents or representatives;

(c) Another person involved in the prevention or detection of violations of NRS 688C.450 or similar offenses or his employees, agents or representatives;

(d) The National Association of Insurance Commissioners or other regulatory body overseeing life insurance or viatical settlements, or its employees, agents or representatives; or

(e) The insurer that issued the policy concerned in the information.

2. The immunity provided in subsection 1 does not extend to a statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a violation of NRS 688C.450, the plaintiff must plead specifically that the defendant acted with actual malice.

3. This section does not supplant or modify any other privilege or immunity at common law or under another statute enjoyed by a person described in subsection 1.

*4. Except as otherwise provided in subsection 5, a person furnishing information as described in subsection 1 is entitled to an award of attorney's fees and costs if:*

*(a) The person is a defendant in a civil case arising out of activities performed in carrying out the provisions of this section;*

*(b) The cause of action in the case is for libel, slander or any other relevant tort;*

*(c) The person is the prevailing party in the case; and*

*(d) The person bringing the action is not substantially justified in doing so.*

*5. A person furnishing information relating to his own fraudulent acts as they relate to a viatical settlement is not entitled to an award pursuant to subsection 4.*

*Sec. 40.58. NRS 688C.510 is hereby amended to read as follows:*

688C.510 1. In addition to the penalties and other means of enforcement provided under this chapter:

(a) If a person violates a provision of this chapter or of a regulation adopted under this chapter, the Commissioner may seek an injunction and apply for temporary and permanent orders he determines to be necessary to restrain the violator.

(b) A person who violates a provision of this chapter is subject to an administrative fine of not more than $1,000 for each violation.

(c) In addition to a criminal penalty imposed, the court shall order restitution to the person aggrieved by the violation.

2. A person aggrieved by a violation of this chapter may bring a civil action against the violator to recover the damages suffered.

*3. A violation of this chapter attendant to the signing of an agreement to purchase a viatical settlement renders the agreement voidable and subject to rescission by the purchaser of viatical settlements, upon tender of the viaticated policy by the purchaser of viatical settlements to the provider of viatical settlements. Suit for rescission may be brought:*

*(a) In a court of competent jurisdiction;*

*(b) In the jurisdiction where the alleged violator resides;*

*(c) In the jurisdiction where the alleged violator has a principal place of business; or*

*(d) In the jurisdiction where the alleged violation occurred.*

Sec. 41. NRS 689.175 is hereby amended to read as follows:

689.175 1. The proposed seller, or the appropriate corporate officer of the proposed seller, shall apply in writing to the Commissioner for a seller's certificate of authority, showing:

(a) The proposed seller's name and address, and his occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner;

(e) A complete set of his fingerprints and written permission authorizing the Commissioner 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;

(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and

(g) The applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 42. NRS 689.205 is hereby amended to read as follows:

689.205 1. Each seller's certificate of authority issued pursuant to NRS 689.150 to 689.375, inclusive, expires at midnight on April 30 of the third year following its date of issuance or renewal.

2. The Commissioner shall renew a certificate of authority upon receiving a written request for renewal from the seller, accompanied by ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal, which ~~[is]~~ *are* not refundable, if he finds that the seller is, at that time, in compliance with all applicable provisions of NRS 689.150 to 689.375, inclusive.

3. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the certificate if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

Sec. 43. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner 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.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

Sec. 44. NRS 689.255 is hereby amended to read as follows:

689.255 1. Each agent's license issued pursuant to NRS 689.150 to 689.375, inclusive, continues in force for 3 years unless it is suspended, revoked or otherwise terminated.

2. An agent's license may be renewed at the request of the holder of a valid seller's certificate of authority, upon filing a written request for renewal accompanied by ~~[the required fee]~~ *all applicable fees* for renewal and the statement required pursuant to NRS 689.258. ~~[The fee]~~ *All applicable fees* for renewal ~~[is]~~ *are* nonrefundable.

3. Any license not so renewed expires at midnight on the last day of the month specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the statement required pursuant to NRS 689.258.

4. An agent's license is valid only while the agent is employed by a holder of a valid seller's certificate of authority.

Sec. 45. NRS 689.490 is hereby amended to read as follows:

689.490 1. The proposed seller, or the appropriate corporate officer of the seller, shall apply in writing to the Commissioner for a seller's permit, showing:

(a) The proposed seller's name and address and his occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund and accepts it;

(b) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(c) A certified copy of the articles of incorporation and the bylaws of any corporate applicant;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as required by the Commissioner;

(e) A complete set of his fingerprints and written permission authorizing the Commissioner 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;

(f) A fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant; and

(g) The applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 46. NRS 689.505 is hereby amended to read as follows:

689.505 1. Each seller's permit issued pursuant to NRS 689.450 to 689.595, inclusive, continues in effect for 3 years unless it is suspended, revoked or otherwise terminated.

2. The Commissioner shall renew a seller's permit upon receiving a written request for renewal from the seller, accompanied by ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal, which ~~[is]~~ *are* not refundable, if he finds that the seller is, at that time, in compliance with all applicable provisions of NRS 689.450 to 689.595, inclusive.

3. A permit which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the permit if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

Sec. 47. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner 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.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable ~~[.]~~ *, and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

Sec. 48. NRS 689.530 is hereby amended to read as follows:

689.530 1. Each agent's license issued pursuant to NRS 689.450 to 689.595, inclusive, continues in effect for 3 years unless it is suspended, revoked or otherwise terminated.

2. An agent's license may be renewed, unless it has been suspended or revoked, at the request of the holder of a valid seller's permit upon filing a written request for renewal accompanied by ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal and the statement required pursuant to NRS 689.258. ~~[The fee]~~ *All applicable fees* for renewal ~~[is]~~ *are* not refundable.

3. The Commissioner may accept a request for renewal which is received by him within 30 days after the expiration of the license if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the statement required pursuant to NRS 689.258.

4. An agent's license is valid only while the agent is employed by a holder of a valid seller's permit.

Sec. 49. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, if a policy of health insurance includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the insurer must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision;*

*(b) The drug was covered by the policy of health insurance before the revision; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in a policy of health insurance is revised, the insurer must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the insurer has notified the insured of any increase.*

*3. A policy of health insurance subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.*

Sec. 50. NRS 689A.04045 is hereby amended to read as follows:

689A.04045 1. Except as otherwise provided in this section, a policy of health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the policy ~~[.]~~ *; or*

*(d) Apply if the prescription drug is covered under the provisions of section 49 of this act.*

3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 51. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[.]~~ *, and section 49 of this act.*

Sec. 52. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, if a policy of group health insurance includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the insurer must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision;*

*(b) The drug was covered by the policy of group health insurance before the revision; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in a policy of group health insurance is revised, the insurer must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the insurer has notified the insured of any increase.*

*3. A policy of group health insurance subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.*

Sec. 53. NRS 689B.030 is hereby amended to read as follows:

689B.030 Each group health insurance policy must contain in substance the following provisions:

1. A provision that, in the absence of fraud, all statements made by applicants or the policyholders or by an insured person are representations and not warranties, and that no statement made for the purpose of effecting insurance voids the insurance or reduces its benefits unless the statement is contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to him or his beneficiary.

2. A provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group a statement in summary form of the essential features of the insurance coverage of that employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one statement need be issued for each family.

3. A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

4. A provision for benefits for expense arising from care at home or health supportive services if the care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

5. ~~[A provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 689B.036.~~

~~6.]~~ A provision for benefits for expenses arising from hospice care.

Sec. 54. NRS 689B.0368 is hereby amended to read as follows:

689B.0368 1. Except as otherwise provided in this section, a policy of group health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the policy ~~[.]~~ *; or*

*(d) Apply if the prescription drug is covered under the provisions of section 52 of this act.*

3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 55. Chapter 689C of NRS is hereby amended by adding thereto the provisions set forth as sections 56 to 59, inclusive, of this act.

Sec. 56. *Each group health insurance policy must contain in substance a provision for benefits payable for expenses incurred for the treatment of abuse of alcohol or drugs, as provided in section 58 of this act.*

Sec. 57. *1. Notwithstanding any provisions of this title to the contrary, a policy of group health insurance delivered or issued for delivery in this State pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.*

*2. The coverage required by this section:*

*(a) Must provide:*

*(1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and*

*(2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured. In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.*

*(b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.*

*3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out-of-pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of group health insurance.*

*4. The provisions of this section do not apply to a policy of group health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.*

*5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.*

*6. The provisions of this section do not:*

*(a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.*

*(b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this State with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.*

*7. A policy of group health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after*

*October 3, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.*

*8. As used in this section, "severe mental illness" means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association:*

*(a) Schizophrenia.*

*(b) Schizoaffective disorder.*

*(c) Bipolar disorder.*

*(d) Major depressive disorders.*

*(e) Panic disorder.*

*(f) Obsessive-compulsive disorder.*

Sec. 58. *1. The benefits provided by a group policy for health insurance, as required by section 56 of this act, for the treatment of abuse of alcohol or drugs must consist of:*

*(a) Treatment for withdrawal from the physiological effects of alcohol or drugs, with a minimum benefit of $1,500 per calendar year.*

*(b) Treatment for a patient admitted to a facility, with a minimum benefit of $9,000 per calendar year.*

*(c) Counseling for a person, group or family who is not admitted to a facility, with a minimum benefit of $2,500 per calendar year.*

*2. These benefits must be paid in the same manner as benefits for any other illness covered by a similar policy are paid.*

*3. The insured person is entitled to these benefits if treatment is received in any:*

*(a) Facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services.*

*(b) Hospital or other medical facility or facility for the dependent which is licensed by the Health Division of the Department of Health and Human Services, is accredited by the Joint Commission on Accreditation of Healthcare Organizations and provides a program for the treatment of abuse of alcohol or drugs as part of its accredited activities.*

Sec. 59. *1. Except as otherwise provided in subsection 2, if a health benefit plan includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the carrier must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision;*

*(b) The drug was covered by the health benefit plan before the revision; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in a health benefit plan is revised, the carrier must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the carrier has notified the insured of any increase.*

*3. A health benefit plan subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.*

Sec. 60. NRS 689C.156 is hereby amended to read as follows:

689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. The health insurance plans marketed pursuant to this section by the carrier must include, without limitation, a basic health benefit plan and a standard health benefit plan. A carrier shall be deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.

2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, *and section 59 of this act,* and 689C.610 to 689C.980, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.

3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 61. NRS 689C.168 is hereby amended to read as follows:

689C.168 1. Except as otherwise provided in this section, a health benefit plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the carrier for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The carrier from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the plan ~~[.]~~ *; or*

*(d) Apply if the prescription drug is covered under the provisions of section 59 of this act.*

3. Any provision of a health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 62. NRS 689C.425 is hereby amended to read as follows:

689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, to the extent applicable and not in conflict with the express provisions of NRS 689C.360 to 689C.600, inclusive ~~[.]~~ *, and section 59 of this act.*

Sec. 63. NRS 690C.160 is hereby amended to read as follows:

690C.160 1. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the Commissioner:

(a) A registration application on a form prescribed by the Commissioner;

(b) Proof that he has complied with the requirements for security set forth in NRS 690C.170;

(c) A copy of each type of service contract he proposes to issue, sell or offer for sale;

(d) The name, address and telephone number of each administrator with whom the provider intends to contract; and

(e) A fee of $1,000 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. In addition to the fee required by subsection 1, a provider must pay a fee of $25 for each type of service contract he files with the Commissioner.

3. A certificate of registration is valid for 1 year after the date the Commissioner issues the certificate to the provider. A provider may renew his certificate of registration if, before the certificate expires, he submits to the Commissioner an application on a form prescribed by the Commissioner ,

~~[and]~~ a fee of $1,000 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 64. NRS 692A.103 is hereby amended to read as follows:

692A.103 1. A person who wishes to obtain a license as an escrow officer must:

(a) File a written application in the Office of the Commissioner;

(b) Except as otherwise provided in subsection 3, demonstrate competency in matters relating to escrows by:

(1) Having at least 1 year of recent experience with respect to escrows of a sufficient nature to allow him to fulfill the responsibilities of an escrow officer; or

(2) Passing a written examination concerning escrows as prescribed by the Commissioner;

(c) Submit the name and business address of the title agent who will supervise the escrow officer;

(d) Submit the statement required pursuant to NRS 692A.1033; and

(e) Pay the fees required by NRS 680B.010 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. The Commissioner shall issue a license as an escrow officer to any person who satisfies the requirements of subsection 1.

3. The Commissioner may waive the requirements of paragraph (b) of subsection 1 if the applicant submits with his application satisfactory proof that he, in good standing, currently holds a license, or held a license within 1 year before the date he submits his application, which was issued pursuant to the provisions of NRS 645A.020.

4. A license issued pursuant to this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. The license may be renewed upon submission of the statement required pursuant to NRS 692A.1033 and payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day of the month in which the license is renewable.

5. A license which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by the statement required pursuant to NRS 692A.1033 and a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

6. The Commissioner shall adopt regulations to carry out the provisions of this section.

Sec. 65. NRS 694C.230 is hereby amended to read as follows:

694C.230 1. If the Commissioner determines that the documents and statements filed by the captive insurer satisfy the requirements for licensure, the Commissioner shall issue a license to the captive insurer. The license

may be renewed annually upon the satisfaction of all requirements imposed by the Commissioner and payment of ~~[the]~~ *all applicable* renewal ~~[fee.]~~ *fees.*

2. A captive insurer must pay a fee of $300 for the issuance of a license and, on or before March 1 of each year, an annual fee of $300 *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act* for the renewal of a license.

Sec. 66. NRS 694C.460 is hereby amended to read as follows:

694C.460 1. There is hereby created in the State General Fund an Account for the Regulation and Supervision of Captive Insurers. Money in the Account must be used only to carry out the provisions of this chapter. Except as otherwise provided in NRS 694C.450 ~~[,]~~ *and section 3 of this act,* all fees and assessments received by the Commissioner or Division pursuant to this chapter must be credited to the Account. Not more than 2 percent of the tax collected and deposited in the Account pursuant to NRS 694C.450, may, upon application by the Division or an agency for economic development to, and with the approval of, the Interim Finance Committee, be transferred to an agency for economic development to be used by that agency to promote the industry of captive insurance in this State.

2. Except as otherwise provided in this section, all payments from the Account for the maintenance of staff and associated expenses, including contractual services, as necessary, must be disbursed from the State Treasury only upon warrants issued by the State Controller, after receipt of proper documentation of the services rendered and expenses incurred.

3. At the end of each fiscal year, that portion of the balance in the Account which exceeds $500,000 must be transferred to the State General Fund.

4. The State Controller may anticipate receipts to the Account and issue warrants based thereon.

Sec. 67. Chapter 695A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, if a benefit contract includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the society must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision;*

*(b) The drug was covered by the benefit contract before the revision; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in a benefit contract is revised, the society must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the society has notified the insured of any increase.*

*3. A benefit contract subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the benefit contract or the renewal which is in conflict with this section is void.*

Sec. 68. NRS 695A.080 is hereby amended to read as follows:

695A.080 1. The Commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all applicable provisions of law, he shall issue to the society a certificate of authority indicating that the society may transact business pursuant to the provisions of this chapter.

2. The certificate of authority is prima facie evidence of the existence of the society on the date of the certificate.

3. The Commissioner shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

4. For the issuance or renewal of a certificate of authority, a society must pay to the Commissioner:

(a) A fee of $250 if the number of outstanding benefit contracts within Nevada of the society is 600 or less;

(b) A fee of $500 if the number of outstanding benefit contracts within Nevada of the society is more than 600 but less than 1,200; ~~[and]~~

(c) A fee of $2,450 if the number of outstanding benefit contracts within Nevada of the society is 1,200 or more ~~[.]~~ *; and*

*(d) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

➥ Each such certificate or renewal expires on March 1 following its issuance.

5. If a society properly applies for the renewal of its certificate of authority but does not receive approval of its application by March 1, it may continue to transact business pursuant to this chapter unless it receives notice that the application for renewal is specifically denied.

6. A certified copy or duplicate of a certificate of authority is prima facie evidence that the society may lawfully transact business in this state pursuant to the provisions of this chapter during the period stated on the license.

Sec. 69. NRS 695A.184 is hereby amended to read as follows:

695A.184 1. Except as otherwise provided in this section, a benefit contract which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the society for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The society from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the benefit contract that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the benefit contract ~~[.]~~ *; or*

*(d) Apply if the prescription drug is covered under the provisions of section 67 of this act.*

3. Any provision of a benefit contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 70. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, if a contract for hospital or medical services includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the insurer must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision;*

*(b) The drug was covered by the contract for hospital or medical services before the revision; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in a contract for hospital or medical services is revised, the insurer must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the insurer has notified the insured of any increase.*

*3. A contract for hospital or medical services subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the*

*coverage required by this section, and any provision of the contract or the renewal which is in conflict with this section is void.*

Sec. 71. NRS 695B.110 is hereby amended to read as follows:

695B.110 A corporation shall not establish, maintain or operate a nonprofit service plan as authorized by the provisions of this chapter unless it has:

1. Procured a certificate of authority from the Commissioner for the establishment, maintenance and operation of the plan.

2. Paid to the Commissioner the fees required of insurers by NRS 680B.010 for:

(a) The filing of the initial application;

(b) The issuance of the certificate of authority;

(c) Each annual continuation of the certificate of authority; and

(d) The filing of each annual report.

*3. Paid, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 72. NRS 695B.130 is hereby amended to read as follows:

695B.130 1. An application for a certificate of authority must be filed with the Commissioner in writing by the corporation for medical service which is applying for the certificate on forms furnished or accepted by the Commissioner. The application must set forth such information concerning the applicant and its qualifications and in other respects as the Commissioner may reasonably require.

2. The application must be accompanied by:

(a) A copy of the applicant's charter or articles of incorporation, certified by the public officer with whom the original is required to be filed in its state of domicile;

(b) A copy of the applicant's bylaws, certified by the corporate secretary;

(c) A copy of each contract the applicant has made or proposed to make with hospitals, or physicians or dentists in this state;

(d) A copy of each service contract proposed to be issued to its subscribers in this state;

(e) The schedule of the rates, dues, fees or other periodical charges proposed to be charged for such service contracts; and

(f) ~~[The]~~ *All* applicable ~~[fee]~~ *fees* for an initial application and the issuance of a certificate of authority.

3. If upon completion of the application the Commissioner determines that the applicant is fully qualified and entitled to a certificate of authority under this chapter, he shall promptly issue a certificate of authority to the applicant. If the Commissioner refuses to issue the certificate of authority, he shall give the applicant written notice of the refusal setting forth the grounds therefor.

Sec. 73. NRS 695B.135 is hereby amended to read as follows:

695B.135 1. A certificate of authority issued pursuant to this chapter expires on March 1 of the year following its date of issuance or renewal.

2. To renew a certificate of authority a corporation for medical service must:

(a) File a written request for renewal with the Commissioner; and

(b) Pay ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal for a certificate of authority.

3. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the certificate if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required ~~[.]~~ *, except for any fee required pursuant to section 3 of this act.*

Sec. 74. NRS 695B.160 is hereby amended to read as follows:

695B.160 1. Every corporation subject to the provisions of this chapter shall annually:

(a) On or before March 1, file in the Office of the Commissioner a statement verified by at least two of the principal officers of the corporation, showing its condition and affairs as of December 31 of the preceding calendar year. The statement must be in the form required by the Commissioner and must contain statements relative to the matters required to be established as a condition precedent to maintaining or operating a nonprofit hospital, medical or dental service plan and to other matters which the Commissioner may prescribe.

(b) Pay ~~[the annual fee]~~ *all applicable fees* for the renewal of a certificate of authority and the fee for the filing of an annual statement.

2. The Commissioner may examine, as often as he deems it desirable, the affairs of every corporation subject to the provisions of this chapter. He shall, if practicable, examine each such corporation at least once in every 3 years, and in any event, at least once in every 5 years, as to its condition, fulfillment of its contractual obligations and compliance with applicable laws. For examining the financial condition of every such corporation the Commissioner shall collect the actual expenses of the examination. Such expenses must be paid by the corporation. The Commissioner shall refuse to issue a certificate of authority or shall revoke his certificate of authority issued to any corporation which neglects or refuses to pay such expenses.

Sec. 75. NRS 695B.180 is hereby amended to read as follows:

695B.180 A contract for hospital, medical or dental services must not be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

1. Unless the entire consideration therefor is expressed in the contract.

2. Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution.

3. If the contract purports to entitle more than one person to benefits or services, except for family contracts issued under NRS 695B.190, group contracts issued under NRS 695B.200, and blanket contracts issued under NRS 695B.220.

4. Unless every printed portion and any endorsement or attached papers are plainly printed in type of which the face is not smaller than 10 points.

5. Except for group contracts and blanket contracts issued under NRS 695B.220, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply.

6. Except for group contracts and blanket contracts issued under NRS 695B.230, unless, if any portion of the contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, that portion is printed in boldface type and with greater prominence than any other text of the contract.

7. If the contract contains any provisions purporting to make any portion of the charter, constitution or bylaws of a nonprofit corporation a part of the contract unless that portion is set forth in full in the contract.

8. ~~[Unless the contract, if it is a group contract, contains a provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 695B.194.~~

~~9.]~~ Unless the contract provides benefits for expenses incurred for hospice care.

~~[10.]~~ *9.* Unless the contract for service in a hospital contains in blackface type, not less than 10 points, the following provisions:

> This contract does not restrict or interfere with the right of any person entitled to service and care in a hospital to select the contracting hospital or to make a free choice of his attending physician, who must be the holder of a valid and unrevoked physician's license and a member of, or acceptable to, the attending staff and board of directors of the hospital in which the services are to be provided.

Sec. 76. NRS 695B.1905 is hereby amended to read as follows:

695B.1905 1. Except as otherwise provided in this section, a contract for hospital or medical services which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the contract that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the contract ~~[.]~~ *; or*

*(d) Apply if the prescription drugs are covered under the provisions of section 70 of this act.*

3. Any provision of a contract for hospital or medical services subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 77. NRS 695B.290 is hereby amended to read as follows:

695B.290 Any agent of a nonprofit hospital or medical or dental service corporation who acts as such in the solicitation, negotiation, procurement or making of a hospital service or medical or dental care contract shall be qualified, examined and licensed in the same manner and pay the same fees as provided for health insurance agents in NRS 680B.010 (fee schedule) , ~~[and]~~ chapter 683A of NRS ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 78. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, if an evidence of coverage includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the health maintenance organization must not limit or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision;*

*(b) The drug was covered by the evidence of coverage before the revision; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in an evidence of coverage is revised, the health maintenance organization must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the health maintenance organization has notified the insured of any increase.*

*3. An evidence of coverage subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this*

*section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.*

Sec. 79. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, *and section 78 of this act*, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 80. NRS 695C.170 is hereby amended to read as follows:

695C.170 1. Every enrollee residing in this state is entitled to evidence of coverage under a health care plan. If the enrollee obtains coverage under a health care plan through an insurance policy, whether by option or otherwise, the insurer shall issue the evidence of coverage. Otherwise, the health maintenance organization shall issue the evidence of coverage.

2. Evidence of coverage or amendment thereto must not be issued or delivered to any person in this state until a copy of the form of the evidence of coverage or amendment thereto has been filed with and approved by the Commissioner.

3. An evidence of coverage:

(a) Must not contain any provisions or statements which are unjust, unfair, inequitable, misleading, deceptive, which encourage misrepresentation or which are untrue, misleading or deceptive as defined in subsection 1 of NRS 695C.300; and

(b) Must contain a clear and complete statement, if a contract, or a reasonably complete summary if a certificate, of:

(1) The health care services and the insurance or other benefits, if any, to which the enrollee is entitled under the health care plan;

(2) Any limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any deductible or copayment feature;

(3) Where and in what manner the services may be obtained; *and*

(4) The total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay . ~~[; and~~

~~(5) A provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 695C.174.]~~

➥ Any subsequent change may be evidenced in a separate document issued to the enrollee.

4. A copy of the form of the evidence of coverage to be used in this state and any amendment thereto is subject to the requirements for filing and approval of subsection 2 unless it is subject to the jurisdiction of the Commissioner under the laws governing health insurance, in which event the provisions for filing and approval of those laws apply. To the extent that such provisions do not apply to the requirements in subsection 3, such provisions are amended to incorporate the requirements of subsection 3 in approving or disapproving an evidence of coverage required by subsection 2.

Sec. 81. NRS 695C.1734 is hereby amended to read as follows:

695C.1734 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the health maintenance organization or insurer for a medical condition of an enrollee and the enrollee's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The health maintenance organization or insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the evidence of coverage ~~[.]~~ *; or*

*(d) Apply if the prescription drug is covered under the provisions of section 78 of this act.*

3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 82. NRS 695C.230 is hereby amended to read as follows:

695C.230 1. Every health maintenance organization subject to this chapter shall pay to the Commissioner the following fees:

(a) For filing an application for a certificate of authority, $2,450.

(b) For issuance of a certificate of authority, $250.

(c) For an amendment to a certificate of authority, $100.

(d) For the renewal of a certificate of authority, $2,450.

(e) For filing each annual report, $25.

*(f) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

2. At the time of filing the annual report the health maintenance organization shall forward to the department of taxation the tax and any penalty for nonpayment or delinquent payment of the tax in accordance with the provisions of chapter 680B of NRS.

3. All fees paid pursuant to this section shall be deemed earned when paid and may not be refunded.

Sec. 83. NRS 695D.130 is hereby amended to read as follows:

695D.130 The Commissioner shall issue a certificate of authority to an organization for dental care after the organization has paid an application fee of $2,450 *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act,* and the Commissioner is satisfied that:

1. The persons responsible for operating the organization are competent, trustworthy, have not been convicted of a felony and have good reputations.

2. The plan for dental care includes care which is appropriate for the plan and the plan is appropriate for providing that care.

3. The organization is financially responsible and may reasonably be expected to meet its obligations to its members. To determine financial responsibility the Commissioner may consider:

(a) The organization's arrangements for dental care and the schedule of charges to be used;

(b) The agreements with an insurer, government or any other organizations for ensuring payment for the dental care;

(c) Any provisions for alternative coverage if the plan for dental care is discontinued; and

(d) The agreements with the dentists providing dental care to the organization's members.

4. The appropriate deposits or bonds have been filed with the Commissioner by the organization and its officers.

Sec. 84. NRS 695D.150 is hereby amended to read as follows:

695D.150 A certificate of authority expires at midnight on March 1 following the date it was issued or previously renewed. The Commissioner shall renew the certificate of any organization for dental care which:

1. Continues to comply with the provisions of this chapter; and

2. Pays the fee for renewal of $2,450 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 85. NRS 695E.130 is hereby amended to read as follows:

695E.130 1. Except as otherwise provided in chapter 685A of NRS, a purchasing group shall not purchase insurance from an unauthorized insurer or a risk retention group that is not chartered or registered in this state.

2. A purchasing group is exempt from any law of this state that relates to the formation or prohibition of groups for the purchase of insurance, and any law that would discriminate against a purchasing group or its members.

3. An insurer is exempt from any law of this state that prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experiences not afforded to other persons with respect to rates, policy forms, coverages or other matters.

4. ~~[A purchasing group and its insurer are exempt from any law of this state which requires that an insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent residing in this state.~~

~~5.]~~ A purchasing group that obtains liability insurance from a surplus lines insurer or a risk retention group shall inform each of the members of the purchasing group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

~~[6.]~~ *5.* No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, but the coverage may provide for a deductible or self-insured retention applicable to individual members of the group.

~~[7.]~~ *6.* Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Sec. 86. Chapter 695F of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, if an evidence of coverage includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the prepaid limited health service organization must not limit*

*or exclude coverage for any prescription drug with respect to an insured for whom the prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision;*

*(b) The drug was covered by the evidence of coverage before the revision; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in an evidence of coverage is revised, the prepaid limited health service organization must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the organization has notified the insured of any increase.*

*3. An evidence of coverage subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.*

Sec. 87. NRS 695F.110 is hereby amended to read as follows:

695F.110 An application for a certificate of authority to operate a prepaid limited health service organization must be filed with the Commissioner on a form prescribed by him. The application must be verified by an officer or authorized representative of the applicant and include:

1. A copy of the applicant's basic organizational document, including any articles of incorporation, articles of association, partnership agreement, trust agreement or any other applicable document or amendment thereto.

2. A copy of the bylaws, rules and regulations or similar documents, if any, which regulate the conduct of the internal affairs of the applicant.

3. A list of the names, addresses, official positions and biographical information of the persons responsible for conducting the applicant's affairs, including, but not limited to:

(a) The members of the board of directors;

(b) The members of the board of trustees;

(c) The members of the executive committee or other governing board or committee;

(d) The principal officers;

(e) Any person owning or having the right to acquire 10 percent or more of the voting securities of the applicant; and

(f) If the applicant is a partnership or association, the partners or members of that partnership or association.

4. A statement generally describing the applicant, its facilities, employees and the limited health service or services to be offered.

5. A copy of any contract made or to be made between the applicant and any provider concerning the provision of a limited health service to enrollees.

6. A copy of any contract made, or to be made between the applicant and any person described in subsection 3 . ~~[of this section.]~~

7. A copy of any contract made or to be made between the applicant and any person for the performance on the applicant's behalf of any functions, including, but not limited to, marketing, administration, enrollment, management of investments and subcontracting for the provision of a limited health service to enrollees.

8. A copy of the form of any group contract which is to be issued to employers, unions, trustees or other organizations.

9. A copy of any form for evidence of coverage to be issued to subscribers.

10. A copy of the applicant's most recent financial statements which have been audited by an independent certified public accountant. If the financial affairs of the parent company of the applicant are audited by an independent certified public accountant and the financial affairs of the applicant are not audited, the applicant must submit a copy of the most recently audited financial statement of the parent company which was certified by an independent certified public accountant and the consolidating financial statements of the applicant, unless the Commissioner determines that additional or more recent financial information is required.

11. A copy of the applicant's financial plan, including a 3-year projection of the anticipated operating results, a statement of the sources of working capital and any other sources of funding and any plan for contingencies.

12. A schedule of the rates and charges for the limited health service.

13. A description of the proposed method of marketing.

14. A statement acknowledging that any process in any legal action or proceeding against the applicant on a cause of action arising in this state is valid if lawfully served.

15. A description of the procedure for the resolution of complaints submitted by enrollees concerning the limited health service provided by the prepaid limited health service organization.

16. A description of the procedures to be established for quality assessment and utilization review.

17. A description of the applicant's plan to comply with the provisions of NRS 695F.200.

18. ~~[The fee]~~ *All applicable fees* for filing an application for a certificate of authority.

19. Such other information as the Commissioner may require to make the determination required by this chapter.

Sec. 88. NRS 695F.156 is hereby amended to read as follows:

695F.156 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the prepaid limited health service organization for a medical condition of an enrollee and the

enrollee's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the evidence of coverage ~~[.]~~ *; or*

*(d) Apply if the prescription drug is covered under the provisions of section 86 of this act.*

3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 89. NRS 695F.340 is hereby amended to read as follows:

695F.340 Each prepaid limited health service organization shall pay to the Commissioner the following fees:

| | |
|---|---|
| For filing an application for a certificate of authority | $2,450 |
| For issuance of a certificate of authority | 283 |
| For the renewal of a certificate of authority | 2,450 |
| For filing a material change or addition of a limited health service | 100 |
| For filing an annual report | 25 |
| For filing periodic reports required by the Commissioner ~~[.]~~ | $25 |

*In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 90. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, if a health care plan includes coverage for prescription drugs and the coverage is revised, including, without limitation, a revision in coverage from changing the formulary, the managed care organization must not limit or exclude coverage for any prescription drug with respect to an insured for whom the*

*prescription drug is necessary to prevent the rejection of a transplanted organ if:*

*(a) The insured had been taking the prescription drug before the revision of the formulary;*

*(b) The drug was covered by the health care plan before the revision of the formulary; and*

*(c) The provider of health care of the insured continues to prescribe the drug for the insured.*

*2. If the coverage for prescription drugs in a health care plan is revised, the managed care organization must not increase the amount that an insured is required to pay with respect to a prescription drug described in subsection 1 until at least 1 year after the managed care organization has notified the insured of any increase.*

*3. A health care plan subject to the provisions of this chapter that is, or has been, delivered, issued for delivery or renewed before, on or after June 15, 2009, has the legal effect of including the coverage required by this section, and any provision of the health care plan or the renewal which is in conflict with this section is void.*

Sec. 91. NRS 695G.166 is hereby amended to read as follows:

695G.166 1. Except as otherwise provided in this section, a health care plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the managed care organization for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive; ~~[or]~~

(c) Require any coverage for a drug after the term of the plan ~~[.]~~ *; or*

*(d) Apply if the prescription drug is covered under the provisions of section 90 of this act.*

3. Any provision of a health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 92. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration annually before the registration expires. Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act;* and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or

affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 93. NRS 696A.140 is hereby amended to read as follows:

696A.140 The Commissioner shall not issue a certificate of authority to any motor club until:

1. It files with him the following:

(a) A formal application for the certificate in such form and detail as the Commissioner requires, executed under oath by its president or other principal officer.

(b) A certified copy of its charter or articles of incorporation and its bylaws.

2. It pays to him the following:

(a) A fee of $500 for the filing of an application for the certificate; ~~[and]~~

(b) A fee of $283 for the issuance of the certificate ~~[.]~~ *; and*

*(c) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

3. It deposits the required cash, securities, bond or evidence of such a deposit in another state as provided in NRS 696A.080 with the Commissioner.

4. Its name is approved by the Commissioner pursuant to NRS 696A.120.

Sec. 94. NRS 696A.150 is hereby amended to read as follows:

696A.150 Every certificate of authority issued to a motor club expires annually on March 1 unless it is revoked or suspended. The certificate may be renewed by paying to the Commissioner an annual fee for renewal of $500 before the expiration of the certificate ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 95. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner ~~[an annual fee of $500.]~~ *all applicable fees.*

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement or to pay timely the annual fee required by this section shall pay an administrative penalty of $100 per day until the report or statement is filed, except that the total penalty must not exceed $3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 96. NRS 696A.300 is hereby amended to read as follows:

696A.300 1. Each license for a club agent issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon submission of the statement required pursuant to NRS 696A.303 and payment to the Commissioner of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal and a fee established by the Commissioner of not more than $15 for deposit in the insurance recovery account created by NRS 679B.305. The statement must be submitted and the fees must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by the statement required pursuant to NRS 696A.303, a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and the fee established by the Commissioner of not more than $15 for deposit in the insurance recovery account created by NRS 679B.305.

3. The Commissioner shall collect in advance and deposit with the State Treasurer for credit to the State General Fund the following fees for licensure as a club agent:

(a) Application and license $78

(b) Appointment by each motor club 5

(c) Triennial renewal of each license 78

*(d) In addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

Sec. 97. NRS 697.230 is hereby amended to read as follows:

697.230 1. Except as otherwise provided in NRS 697.177, each license issued to a general agent, bail agent, bail enforcement agent or bail solicitor under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of ~~[the]~~ *all* applicable ~~[fee]~~ *fees* for renewal to the Commissioner on or before the last day of the month in which the license is renewable. ~~[The fee]~~ *All applicable fees* must be accompanied by:

(a) Proof that the licensee has completed a 3-hour program of continuing education that is:

(1) Offered by the authorized surety insurer from whom he received his written appointment, if any, a state or national organization of bail agents or another organization that administers training programs for general agents, bail agents, bail enforcement agents or bail solicitors; and

(2) Approved by the Commissioner;

(b) If the licensee is a natural person, the statement required pursuant to NRS 697.181; and

(c) A written request for renewal of the license. The request must be made and signed:

(1) By the licensee in the case of the renewal of a license as a general agent, bail enforcement agent or bail agent.

(2) By the bail solicitor and the bail agent who employs the solicitor in the case of the renewal of a license as a bail solicitor.

2. Any license that is not renewed on or before the last day specified for its renewal expires at midnight on that day. The Commissioner may accept a request for renewal received by him within 30 days after the date of expiration if the request is accompanied by a fee for renewal of 150 percent of ~~[the fee]~~ *all applicable fees* otherwise required *, except for any fee required pursuant to section 3 of this act,* and, if the person requesting renewal is a natural person, the statement required pursuant to NRS 697.181.

3. A bail agent's license continues in force while there is in effect an appointment of him as a bail agent of one or more authorized insurers. Upon termination of all the bail agent's appointments and his failure to replace any appointment within 30 days thereafter, his license expires and he shall promptly deliver his license to the Commissioner.

4. The Commissioner shall terminate the license of a general agent for a particular insurer upon a written request by the insurer.

5. This section does not apply to temporary licenses issued under NRS 683A.311 or 697.177.

*Sec. 97.72.* *Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 97.73, 97.74 and 97.75 of this act.*

*Sec. 97.73.* *"Provider of viatical settlements" has the meaning ascribed to it in NRS 688C.080.*

*Sec. 97.74.* *"Viatical settlement investment" means the contractual right to receive a specified portion of the death benefit or ownership of a life insurance policy or certificate in exchange for consideration that is less than the dollar amount of the expected death benefit of the life insurance policy or certificate. The term does not include:*

*1. A transaction between a viator and a provider of viatical settlements;*

*2. A transfer of ownership or beneficial interest in a life insurance policy from a provider of viatical settlements to another provider of viatical settlements, or to a legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;*

*3. The bona fide assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union or other licensed lending institution as collateral for a loan; or*

*4. The exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with title 57 of NRS.*

*Sec. 97.75. "Viator" has the meaning ascribed to it in NRS 688C.150, except that for the purposes of this chapter, a viator need not be a resident of this State.*

*Sec. 97.76. NRS 90.211 is hereby amended to read as follows:*

90.211 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 90.215 to 90.307, inclusive, *and sections 97.73, 97.74 and 97.75 of this act* have the meanings ascribed to them in those sections.

*Sec. 97.77. NRS 90.295 is hereby amended to read as follows:*

90.295 "Security" means a note, stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in a profit-sharing agreement, a limited partnership interest, an interest in a limited-liability company, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, *viatical settlement investment,* voting-trust certificate, certificate of deposit for a security, fractional undivided interest in an oil, gas or other mineral lease or in payments out of production of such a lease, right or royalty, a put, call, straddle or option on a security, certificate of deposit or group or index of securities including any interest therein or based on the value of any of the foregoing, or, in general, any interest or instrument commonly known as a security or any certificate of interest or participation in, temporary or interim certificate for, receipt for, whole or partial guarantee of or warrant or right to subscribe to or purchase any of the foregoing. The term does not include:

1. An insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period; or

2. An interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974.

Sec. 98. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the

dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 689B.030 to 689B.050, inclusive, *and section 52 of this act,* 689B.287 and 689B.575 apply to coverage provided pursuant to this paragraph . ~~[, except that the provisions of NRS 689B.0359 do not apply to such coverage.]~~

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 99. NRS 616A.469 is hereby amended to read as follows:

616A.469 1. The Commissioner may issue certificates authorizing qualified external review organizations to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS. If the Commissioner issues such certificates and the Commissioner determines that an external review organization is qualified to conduct external reviews for the purposes of chapters 616A to 617, inclusive, of NRS, the Commissioner shall issue a certificate to the external review organization that authorizes the organization to conduct such external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner.

2. The Commissioner may adopt regulations setting forth the procedures that an external review organization must follow to be issued a certificate to conduct external reviews. Any regulations adopted pursuant to this section must include, without limitation, provisions setting forth:

(a) The manner in which an external review organization may apply for a certificate and the requirements for the issuance and renewal of the certificate pursuant to this section;

(b) The grounds for which the Commissioner may refuse to issue, suspend, revoke or refuse to renew a certificate issued pursuant to this section;

(c) The manner and circumstances under which an external review organization is required to conduct its business; and

(d) ~~[A fee]~~ *Any applicable fees* for issuing or renewing a certificate of an external review organization pursuant to this section. ~~[The fee must not exceed the cost of issuing or renewing the certificate.]~~

3. A certificate issued pursuant to this section expires 1 year after it is issued and may be renewed in accordance with regulations adopted by the Commissioner.

4. Before the Commissioner may issue a certificate to an external review organization, the external review organization must:

(a) Demonstrate to the satisfaction of the Commissioner that it is able to carry out, in a timely manner, the duties of an external review organization as set forth in NRS 616C.363 and the regulations adopted by the Commissioner. The demonstration must include, without limitation, proof that the external review organization employs, contracts with or otherwise retains only persons who are qualified because of their education, training, professional licensing and experience to perform the duties assigned to those persons; and

(b) Provide assurances satisfactory to the Commissioner that the external review organization will:

(1) Conduct external reviews in accordance with the provisions of NRS 616C.363 and the regulations adopted by the Commissioner;

(2) Render its decisions in a clear, consistent, thorough and timely manner; and

(3) Avoid conflicts of interest.

5. For the purposes of this section, an external review organization has a conflict of interest if the external review organization or any employee, agent or contractor of the external review organization who conducts an external review has a professional, familial or financial interest of a material nature with respect to any person who has a substantial interest in the outcome of the external review, including, without limitation:

(a) The claimant;

(b) The employer; or

(c) The insurer or any officer, director or management employee of the insurer.

6. The Commissioner shall not issue a certificate to an external review organization that is affiliated with:

(a) An organization for managed care which provides comprehensive medical and health care services to employees for injuries or diseases pursuant to chapters 616A to 617, inclusive, of NRS;

(b) An insurer;

(c) A third-party administrator; or

(d) A national, state or local trade association.

7. An external review organization which is certified or accredited by an accrediting body that is nationally recognized shall be deemed to have satisfied all the conditions and qualifications required for the external review organization to be issued a certificate pursuant to this section.

Sec. 100. NRS 616B.350 is hereby amended to read as follows:

616B.350 1. A group of five or more employers may not act as an association of self-insured public employers unless the group:

(a) Is composed of employers engaged in the same or similar classifications of employment; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

2. A group of five or more employers may not act as an association of self-insured private employers unless each member of the group:

(a) Is a member or associate member of a bona fide trade association, as determined by the Commissioner, which:

(1) Is incorporated in this State; and

(2) Has been in existence for at least 5 years; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

3. An association of public or private employers that wishes to be issued a certificate must file with the Commissioner an application for certification.

4. The application must include:

(a) The name of the association.

(b) The address of:

(1) The principal office of the association.

(2) The location where the books and records of the association will be maintained.

(c) The date the association was organized.

(d) The name and address of each member of the association.

(e) The names of the initial members of the board of trustees and the name of the initial association's administrator.

(f) Such other information as the Commissioner may require.

5. The application must be accompanied by:

(a) A nonrefundable filing fee of $1,000 ~~[.]~~ *and, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.*

(b) Proof of compliance with NRS 616B.353.

(c) Proof that the association or its third-party administrator is licensed or otherwise authorized to conduct business in this State pursuant to title 57 of NRS.

(d) A copy of the agreements entered into with the association's administrator and a third-party administrator.

(e) A copy of the bylaws of the association.

(f) A copy of an agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(g) A pro forma financial statement prepared by an independent certified public accountant in accordance with generally accepted accounting principles that shows the financial ability of the association to pay all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(h) A reviewed financial statement prepared by an independent certified public accountant for each proposed member of the association or evidence

of the ability of the association or its proposed members to provide a solvency bond pursuant to subsection 3 of NRS 616B.353.

(i) Proof that each member of the association will make the initial payment to the association required pursuant to NRS 616B.416 on a date specified by the Commissioner. The payment shall be deemed to be a part of the assessment required to be paid by each member for the first year of self-insurance if certification is issued to the association.

6. Except as otherwise provided in NRS 239.0115, any financial information relating to a member of an association received by the Commissioner pursuant to the provisions of this section is confidential and must not be disclosed.

7. For the purposes of this section, "associate member of a bona fide trade association" means a supplier whose business, as determined by the Commissioner:

(a) Is limited to a specific industry; and

(b) Primarily involves providing a product or service that is directly used or consumed by substantially all of the members of the trade association or bears a direct relationship to the business of the members of the association.

Sec. 101. NRS 616B.359 is hereby amended to read as follows:

616B.359 1. The Commissioner shall grant or deny an application for certification as an association of self-insured public or private employers within 60 days after receiving the application. If the application is materially incomplete or does not comply with the applicable provisions of the law, the Commissioner shall notify the applicant of the additional information or changes required. Under such circumstances, if the Commissioner is unable to act upon the application within this 60-day period, he may extend the period for granting or denying the application, but for not longer than an additional 90 days.

2. Upon determining that an association is qualified as an association of self-insured public or private employers, the Commissioner shall issue a certificate to that effect to the association and the association's administrator. No certificate may be issued to an association that, within the 2 years immediately preceding its application, has had its certification as an association of self-insured public or private employers involuntarily withdrawn by the Commissioner.

3. A certificate issued pursuant to this section must include, without limitation:

(a) The name of the association;

(b) The name of each employer who the Commissioner determines is a member of the association at the time of the issuance of the certificate;

(c) An identification number assigned to the association by the Commissioner; and

(d) The date on which the certificate was issued.

4. A certificate issued pursuant to this section remains in effect until *the certificate is* withdrawn by the Commissioner ~~[or]~~ *, the certificate is*

cancelled at the request of the association ~~[.]~~ *or an association does not pay, in addition to any other fee or charge, all applicable fees required pursuant to section 3 of this act.* Coverage for an association granted a certificate becomes effective on the date of certification or the date specified in the certificate.

5. The Commissioner shall not grant a request to cancel a certificate unless the association has insured or reinsured all incurred obligations with an insurer authorized to do business in this State pursuant to an agreement filed with and approved by the Commissioner. The agreement must include coverage for actual claims and claims incurred but not reported, and the expenses associated with those claims.

Sec. 102. NRS 658.151 is hereby amended to read as follows:

658.151 1. The Commissioner may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the depository institution:

(a) Has violated its charter or any laws applicable thereto.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' or members' equity.

(e) Has refused to pay its depositors in accordance with the terms on which such deposits were received, or has refused to pay its holders of certificates of indebtedness or investment in accordance with the terms upon which those certificates of indebtedness or investment were sold.

(f) Has become *or is in imminent danger of becoming* otherwise insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to trustees.

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

2. The Commissioner also may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the officers of the depository institution have refused to be examined upon oath regarding its affairs.

Sec. 103. NRS 667.035 is hereby amended to read as follows:

667.035 1. ~~[After July 1, 1971, the]~~ *The* Federal Deposit Insurance Corporation created by the Federal Deposit Insurance Act, 12 U.S.C. 1811, may act without bond as receiver or liquidator of any state bank which ~~[has]~~ *:*

*(a) Has* been closed because of inability to meet the demands of its depositors ~~[.]~~ *; or*

*(b) Is insured by the Federal Deposit Insurance Corporation and has been taken possession of by the Commissioner pursuant to NRS 658.151.*

2. The appropriate state authority having the right to appoint a receiver or liquidator of a state bank may, upon such closing, tender to the Federal Deposit Insurance Corporation the appointment as receiver or liquidator of such bank. If the Federal Deposit Insurance Corporation accepts the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of a state bank, its depositors and other creditors, and shall be subject to all the duties of such receiver or liquidator, except insofar as such powers, privileges or duties are in conflict with the provisions of the Federal Deposit Insurance Act.

Sec. 104. NRS *688C.120, 688C.340,* 689B.0359, 689B.036, 695B.1938, 695B.194, 695C.1738 and 695C.174 are hereby repealed.

Sec. 105. Notwithstanding any other provision of this act:

1. On or before October 1, 2009, a person who, on the effective date of this act, is subject to an annual fee pursuant to section 3 of this act shall pay to the Commissioner 50 percent of the annual fee listed for that person in section 3 of this act, except for:

(a) External review organizations, as provided for in NRS 616A.469 or 683A.371, or both;

(b) Agents who perform utilization reviews, as defined in NRS 683A.376;

(c) Brokers of viatical settlements, as defined in NRS 688C.030;

(d) Providers of viatical settlements, as defined in NRS 688C.080;

(e) Captive insurers, as defined in NRS 694C.060;

(f) Purchasing groups, as defined in NRS 695E.100; and

(g) Risk retention groups, as defined in NRS 695E.110.

2. A person who pays pursuant to subsection 1 shall next pay an annual fee on or before March 1, 2010.

Sec. 106. 1. This section and sections 1 to 36, inclusive, 39 *, 40, 41* to 48, inclusive, 63 to 66, inclusive, 68, 71 to 74, inclusive, 77, 82 to 85, inclusive, 87, 89, 92 to 103, inclusive, and 105 of this act become effective upon passage and approval.

2. Sections 49 to 52, inclusive, 54, 55, 59 to 62, inclusive, 67, 69, 70, 76, 78, 79, 81, 86, 88, 90 and 91 of this act become effective on June 15, 2009.

3. Sections *38.105 to 38.36, inclusive, 39.1, 40.1 to 40.58, inclusive,* 53, 75, 80, *97.72 to* 98 *, inclusive,* and 104 of this act become effective on October 1, 2009.

4. Sections 37, 56, 57 and 58 of this act become effective on October 3, 2009.

5. Section 38 of this act becomes effective on October 9, 2009.

LEADLINES OF REPEALED SECTIONS

*688C.120 "Trust for a related provider" defined.*

*688C.340 Trust for related provider: Required agreement between trustee and provider.*

689B.0359 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

689B.036 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

695B.1938 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695B.194 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

695C.1738 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695C.174 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

Senator Carlton moved the adoption of the amendment.

Conflict of interest declared by Senator Raggio.

Remarks by Senators Carlton, Hardy, Townsend and Coffin.

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

SENATOR CARLTON:

The amendment addresses four basic elements. It establishes a five-year waiting period from the time the insurance policy is purchased to the time it can be sold except in certain cases such as terminal illness. It improves accountability and transparency by requiring additional notices and disclosures. It enhances advertising and marketing guidelines for these products so the consumers are more aware of what they are purchasing and the consequences of those actions. It establishes oversight from the Office of the Secretary of State on the security side of the bill.

Viaticals in this amendment are not being prohibited. We are enhancing consumer protection. Viaticals are financial transactions in which a company buys a life insurance policy from someone who is either terminally ill or in a financial crisis at less than the face value and, then, sells the policy to other investors.

SENATOR HARDY:

I understand this is a successor bill to Senate Bill No. 388. Does this amendment contain the language of Senate Bill No. 388 relative to the provisions to that bill that spoke to the issue where we provided the ability to access certain insurance programs that are available to Taft-Hartley type programs for small businesses? Does this include the language to reverse the action of this Legislature from the last Session?

SENATOR CARLTON:

My colleague is referring to the Multiple Employer Welfare Arrangements provision and what was encapsulated within Senate Bill No. 112. No, that provision is not in this bill. The only thing that is would be the viatical section for consumer protection.

SENATOR TOWNSEND:

On page 27, starting with section 38, is it the understanding of this body that the definitions in here are now being defined better than they currently are in statute, or are they not in statute? Is there a current prohibition against viaticals that we are removing? Who maintains the risk other than the investor? Are the costs of these products market driven or is there some regulatory entity that has the ability to analyze what they are and what their worth is, either face value or less? Is the market driven only by those investors who are buying these? Are they packaged as referenced in your statement regarding the sale of these as credit-default swaps and sold to institutional or large investor groups? What are we trying to address with this? Is it necessary to put this on the Insurance Commissioner's Omnibus Bill? We know the bill is necessary without this amendment to continue to provide and allow the Insurance Commissioner to maintain the accreditation of that Department and without it, we would have substantial loss of domestic insurers?

SENATOR CARLTON:

As far as this provision being in the Insurance Commissioner's bill, we originally carried that bill as Commerce and Labor at the beginning of the Session. This is his language. He has reviewed this language. This is what had been asked for since the beginning of this Session. It was purported to be consumer-protection language. Apparently, these are being bundled, then. sold. There are problems with some fraud elements as far as viaticals. They are praying upon senior citizens and people in a financial crisis. They sell people this life insurance policy; then, they want to purchase it back for pennies on the dollar. People do not receive all of the disclosures. They do not know the questions to ask to get the answers they need to make the right decisions. By taking it to five years, it takes the incentive out of investing in death. We had heard that AIG was involved in the viaticals.

We did not address the costs and risks. The discussion in the committee was at a policy level. We discussed how to protect the consumer if they are in a situation where they have purchased a viatical and to learn what the long-term consequences to them can be. If you purchase a few of them, it can impact your ability to have life insurance for your family for many years. These were popular in the early 1980s. People with terminal illnesses had life insurance policies and no money for the medical treatments they needed. They used this provision to pay for their medical treatment.

SENATOR TOWNSEND:

Thank you for the answers. This is a difficult area. The answers were clear.

The Omnibus Bill was negotiated between the needs of the Insurance Division to meet its obligations to the State by maintaining its accreditation. The insurance industry has negotiated for them to pay additional fees in order to provide additional regulation. In adding this amendment are the fees that are in here going to adequately cover the information in the pages that require the Division to provide additional regulatory oversight or is this going to additionally strain the Division's resources.

SENATOR CARLTON:

I asked the Insurance Commissioner that question. He is well aware of the cost of doing this, and he is willing to take it on because their mission is consumer protection.

SENATOR COFFIN:

As an insurance broker-agent, I would pay more to help rescue the Insurance Division, which has been allowed to fall into disrepair under this present administration.

These fees are important. I would not think we would want to send this bill over to a Governor who might veto the bill to keep this important agency alive. What the Commerce and Labor Committee Chair has done is an excellent explanation of the need to put this back into the bill. I was surprised to find that the bill had been set aside, and we had to resurrect the consumer-protection portions of this.

I would like to talk about ethics. When I started in the insurance business 40 years ago, one of the first things I learned about was the history of life insurance. Tontines existed long ago. It was a gambling thing done with life insurance. A person bought an insurance contract on another person; at sometime the second person might die, the first person would collect on that person's life. People could buy policies on each other in those days. Smart people decided that was not a good idea. Tontines were made illegal.

Since then, investment bankers have gotten into the insurance business and have ruined it by creating and fostering the stranger-oriented life insurance. Nothing could be closer to Tontines than that. After 250 years, we have gone backwards.

The only thing that will protect the consumer from aggressive brokers, agents and companies is a space of time between the underwriting of a policy and its ability to be sold later as an investment. Five years should be the law and we should send this bill to the Governor in the proper shape.

Motion carried on a division of the house.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Mathews moved that all necessary rules be suspended, and that Senate Bill No. 426 be declared an emergency measure under the Constitution and placed on the General File for third reading and final passage upon return from reprint for this legislative day.

Motion carried unanimously.

Assembly Bill No. 22.

Bill read second time.

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

Amendment No. 769.

"SUMMARY—Revises provisions relating to certain trade practices. (BDR 52-428)"

"AN ACT relating to trade practices; providing that certain persons may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud; *revising provisions governing the State's system for the registration and protection of trademarks, trade names and service marks; making various changes regarding administration of the system by the Secretary of State; authorizing the Secretary of State to prescribe certain fees; prohibiting certain misleading and deceptive practices; providing remedies and penalties;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS)

Section 1 of this bill provides that certain persons may bring a civil action for damages for deceptive trade practices and violations of chapter 598 of NRS or any regulation adopted pursuant to that chapter. Section ~~[14]~~ *59* of this bill allows equitable relief for various actions involving consumer fraud.

*Nevada's existing trademark laws, which are administered by the Secretary of State, establish a system for the registration and protection of marks, including trademarks, trade names and service marks. (NRS 600.240-600.450) Nevada's existing trademark laws are based on the Model State Trademark Bill, which was drafted by the International Trademark Association to promote uniformity among state trademark laws and to harmonize those state laws with the federal Trademark Act of 1946, which is commonly known as the Lanham Act. (15 U.S.C. §§ 1051 et seq.)*

*Sections 13-57 of this bill amend Nevada's existing trademark laws to account for several changes made to the Model State Trademark Bill and the federal Trademark Act in recent years. This bill provides that the amendments to Nevada's existing trademark laws become effective on October 1, 2010, except that this bill gives the Secretary of State authority upon passage and approval to adopt any regulations necessary for the administration of the trademark laws.*

*Sections 14, 20, 21 and 30-37 of this bill specify the persons who may register marks in this State and define the types of trademarks, trade names and service marks that may be registered. (NRS 600.250-600.330) Sections 22 and 36 of this bill define when a mark is deemed to be in use in this State and when a mark is deemed to be abandoned. (NRS 600.320)*

*Sections 15-18 and 55 of this bill protect against misuse or dilution of a famous mark and prohibit certain misleading and deceptive practices which impair the distinctiveness or harm the reputation of a famous mark. (NRS 600.435)*

*Sections 19 and 23 of this bill provide that to the extent Nevada's trademark laws, as implemented and administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must be considered to be persuasive authority in interpreting and applying Nevada's trademark laws.*

*Existing law establishes the amounts of the fees the Secretary of State is required to collect in administering Nevada's trademark laws. (NRS 600.340, 600.355, 600.360, 600.370, 600.395) Section 24 of this bill requires the Secretary of State to prescribe the amounts of such fees by regulation and also makes such fees nonrefundable. Section 65 of this bill requires the existing amounts of such fees to remain in effect until the Secretary of State prescribes the amounts by regulation.*

*Sections 25 and 38-50 of this bill revise the requirements and procedures for: (1) filing, amending and reviewing applications for registration of a mark; (2) issuing, correcting, renewing and cancelling registrations; and (3) filing and recording assignments, name changes and other documents related to a registered mark, including licenses, security interests and mortgages. (NRS 600.340-600.395)*

*Sections 26 and 27 of this bill establish requirements for bringing actions to compel registration of a mark and actions for cancellation of the registration of a mark. Section 28 of this bill provides a method for service of process in actions brought against certain nonresident owners of marks.*

*Section 51 of this bill requires the Secretary of State to adopt regulations defining general classes of goods and services for which a mark may be registered. Section 51 also provides that to the extent practicable, the classes of goods and services adopted by the Secretary of State must conform to the classes of goods and services adopted by the United States Patent and*

*Trademark Office in the administration of the federal Trademark Act. (NRS 600.400)*

*The other sections of this bill make conforming changes.*

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2, in addition to any other remedy or penalty, if a person suffers damage as a result of a deceptive trade practice or a violation of this chapter or any regulation adopted pursuant to this chapter, that person may commence a civil action against any other person who engaged in the act or violation to recover statutory damages of up to $5,000 per act or violation.*

*2. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the act or violation:*

*(a) Was not intentional; and*

*(b) ~~[Was technical in nature; and~~*

*~~(c)]~~ Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.*

*3. For the purposes of this section, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error.*

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments, or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property, or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

*11. Knowingly takes advantage of another person's inability to reasonably protect his own rights or interests in a consumer transaction when such an inability is due to illiteracy or to a mental or physical infirmity which manifests itself as an incapability to understand the language or terms of any agreement or as another similar condition.*

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.*

Sec. 8. NRS 598.096 is hereby amended to read as follows:

598.096 When the Commissioner, Director or Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the Commissioner, Director or Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the Commissioner, Director or Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the Consumer Affairs Division of the Department of Business and Industry, of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 and 598.0979.

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.* An order may not be issued pursuant to this subsection unless:

(a) The Commissioner, Director or Attorney General ~~[,]~~ and the court give the accused full opportunity to be heard; and

(b) The Commissioner, Director or Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[;]~~ *, and section 1 of this act;* and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 11. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act:*

(a) In an action brought by the Attorney General, Commissioner or Director, must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.*

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

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

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act;* or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the Consumer Affairs Division of the Department of Business and Industry or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 12. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ *, and section 1 of this act.*

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act,* if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act*, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

*Sec. 13.* *Chapter 600 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 28, inclusive, of this act.*

*Sec. 14.* *1. "Business or legal entity" means any form of business or social organization and any other nongovernmental legal entity, including, but not limited to, a corporation, limited-liability company, partnership, association, trust, union, joint venture or unincorporated organization.*

*2. The term does not include a government, governmental agency or political subdivision of a government.*

*Sec. 15.* *"Dilution by blurring" means the association arising from the similarity between a mark and a famous mark that impairs the distinctiveness of the famous mark.*

*Sec. 16.* *"Dilution by tarnishment" means the association arising from the similarity between a mark and a famous mark that harms the reputation of the famous mark.*

*Sec. 17.* *"Dilution of a famous mark" means dilution by blurring or dilution by tarnishment, regardless of the presence or absence of:*

*1. Competition between the owner of the famous mark and other parties;*

*2. Actual or likely confusion, mistake or deception; or*

*3. Actual economic injury.*

*Sec. 18.* *"Famous mark" means a mark that is famous in this State pursuant to the criteria set forth in NRS 600.435.*

*Sec. 19.* *"Federal Trademark Act" means the federal Trademark Act of 1946, as amended, 15 U.S.C. §§ 1051 et seq., which is commonly known as the Lanham Act.*

*Sec. 20.* *"Owner of a mark" or "owner" means a person who is the owner of a mark and the legal representatives, successors or assigns of such a person.*

*Sec. 21.* *1. "Person" means a natural person or a business or legal entity.*

*2. The term does not include a government, governmental agency or political subdivision of a government.*

*Sec. 22.* *For the purposes of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a mark is deemed to be "abandoned" when either of the following occurs:*

*1. When use of the mark has been discontinued with the intent not to resume such use. Intent not to resume use may be inferred from the circumstances. Nonuse of the mark for 2 consecutive years constitutes prima facie evidence of abandonment.*

*2. When any course of conduct of the owner of the mark, including acts of omission as well as commission, causes the mark to lose its significance as a mark.*

*Sec. 23.* *1. The provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act must be interpreted and applied to provide in this State a system of registration and protection of marks that is substantially consistent with the federal system of registration and protection of marks pursuant to the federal Trademark Act.*

*2. To the extent that the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, as implemented and administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must be considered to be persuasive authority in interpreting and applying the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.*

*Sec. 24.* *1. The Secretary of State shall, by regulation, prescribe the amount of the fees that are necessary for the administration of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.*

*2. Unless otherwise specified by the Secretary of State, the fees payable pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act are nonrefundable.*

*3. The Secretary of State may adopt any other regulations that are necessary for the administration of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.*

*Sec. 25. 1. After an applicant files an application for registration of a mark and pays the required fees, the Secretary of State may review the application for conformity with the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.*

*2. The applicant:*

*(a) Shall provide any additional pertinent information regarding the application that is requested by the Secretary of State, including, but not limited to, a description or depiction of a design mark; and*

*(b) Except as otherwise provided in this paragraph, may submit amendments to the application as may be reasonably requested by the Secretary of State or deemed by the applicant to be advisable in response to any objection made by the Secretary of State. In lieu of allowing or making any amendments to the application, the Secretary of State may require the applicant to submit a new or corrected application.*

*3. The Secretary of State may require the applicant to disclaim an unregisterable component of a mark that is otherwise registerable, and an applicant may voluntarily disclaim a component of a mark that is otherwise registerable. If the applicant disclaims a component of a mark, the disclaimer does not prejudice or affect the rights of the applicant then existing or thereafter arising, either as an applicant or registrant, in the disclaimed matter or the right to seek registration in another application if the disclaimed matter is or becomes distinctive of the goods or services of the applicant.*

*4. Except as otherwise provided in subsection 5, if the Secretary of State finds that a mark is not entitled to registration:*

*(a) The Secretary of State shall notify the applicant and specify the reasons for the finding;*

*(b) The applicant shall have a reasonable period, as specified by the Secretary of State, in which to respond to the finding or to amend the application; and*

*(c) If the applicant responds to the finding or amends the application, the Secretary of State shall reexamine the application. The Secretary of State and the applicant shall repeat this procedure until:*

*(1) The Secretary of State determines that any further response or amendment by the applicant will not change the result and issues a final decision denying registration of the mark; or*

*(2) The applicant fails to respond or amend the application within the specified period, at which time the application shall be deemed to be abandoned.*

*5. If the Secretary of State is concurrently processing two or more applications seeking registration of the same or confusingly similar mark for the same or related goods or services, the Secretary of State shall grant priority to the applications in the order in which they were filed. If the Secretary of State issues a certificate of registration for a mark in an earlier-filed application, the Secretary of State shall deny registration of the marks in the later-filed applications. If an applicant is aggrieved by a final decision of the Secretary of State denying registration of a mark in a later-filed application pursuant to this subsection, the applicant may bring an action for cancellation of the registration of the mark in the earlier-filed application upon grounds of prior or superior rights to the mark in accordance with section 27 of this act.*

*Sec. 26. 1. If an applicant is aggrieved by a final decision of the Secretary of State denying registration of a mark, the applicant may bring an action for a writ of mandamus to compel registration of the mark.*

*2. The applicant must file the action for a writ of mandamus within 30 days after service of the final decision of the Secretary of State.*

*3. The court's review of the final decision of the Secretary of State denying registration of the mark must be based solely upon the record before the Secretary of State.*

*4. If the applicant proves that all the statements in the application are true and that the mark is otherwise entitled to registration, the court shall grant appropriate relief compelling registration of the mark, but without costs to the Secretary of State.*

*Sec. 27. 1. If a person is aggrieved by the registration of a mark in this State, the person may bring an action for cancellation of the registration of the mark.*

*2. To bring an action for cancellation of the registration of the mark, the person must:*

*(a) Name the owner of the mark as the respondent; and*

*(b) Institute the action by filing a petition in the district court in and for Carson City, in and for the county in which the owner resides or in and for a county where the mark is in use in this State.*

*3. When the person bringing the action serves the respondent with the petition, the person also must serve the Secretary of State with a copy of the petition in the manner prescribed by Rule 5 of the Nevada Rules of Civil Procedure. The Secretary of State is not a necessary and indispensable party to the action under Rule 19 of the Nevada Rules of Civil Procedure, and the person bringing the action may not name the Secretary of State as a party to the action.*

*Sec. 28. In any action brought pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act against a nonresident owner of a mark, if the nonresident owner has not appointed an agent for service of process:*

*1. The Secretary of State shall be deemed to be an agent of the nonresident owner for the purposes of service of process in the action; and*

*2. Service of process may be made upon the Secretary of State as the agent of the nonresident owner in accordance with the procedures established by law for service upon a nonresident business or legal entity.*

*Sec. 29. NRS 600.240 is hereby amended to read as follows:*

600.240 As used in NRS 600.240 to 600.450, inclusive, *and sections 14 to 28, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 600.250 to ~~[600.320,]~~ *600.310,* inclusive, *and sections 14 to 21, inclusive, of this act* have the meanings ascribed to them in those sections.

*Sec. 30. NRS 600.250 is hereby amended to read as follows:*

600.250 "Applicant" means ~~[the person filing]~~ *a person who files* an application for registration of a ~~[trademark, his]~~ *mark pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, and the* legal representatives, successors or assigns ~~[.]~~ *of such a person.*

*Sec. 31. NRS 600.260 is hereby amended to read as follows:*

600.260 "Mark" ~~[includes]~~ *means* any trademark ~~[, trade name]~~ or service mark *, including any trademark or service mark that also functions as a trade name,* entitled to registration *pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act,* whether registered or not.

*Sec. 32. NRS 600.280 is hereby amended to read as follows:*

600.280 "Registrant" ~~[includes]~~ *means* the person to whom *the Secretary of State issues* the *certificate of* registration of a mark ~~[is issued, his]~~ *pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, and the* legal representatives, successors or assigns ~~[.]~~ *of such a person.*

*Sec. 33. NRS 600.290 is hereby amended to read as follows:*

600.290 "Service mark" means ~~[a mark used in the sale or advertising of services]~~ *any word, name, symbol or device, or any combination thereof, used by a person* to identify *and distinguish* the services of ~~[one person and distinguish them]~~ *that person, including a unique service,* from the services of others ~~[.]~~ *, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the titles, character names or programs may advertise the goods of the sponsor.*

*Sec. 34. NRS 600.300 is hereby amended to read as follows:*

600.300 "Trademark" means any word, name, symbol or device, or any combination ~~[of them, adopted and]~~ *thereof,* used by a person to identify *and distinguish the* goods ~~[made]~~ *manufactured* or sold by ~~[him and to distinguish them]~~ *that person, including a unique product,* from *the* goods ~~[made]~~ *manufactured* or sold by others ~~[.]~~ *, and to indicate the source of the goods, even if that source is unknown.*

*Sec. 35.* *NRS 600.310 is hereby amended to read as follows:*

600.310 "Trade name" means ~~[a word, symbol, device, or any combination of them,]~~ *any word or name* used by a person to identify ~~[his]~~ *the* business, vocation or occupation ~~[and distinguish it from the business, vocation or occupation of others.]~~ *of that person.*

*Sec. 36.* *NRS 600.320 is hereby amended to read as follows:*

600.320 *For the purposes of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act:*

*1. "Use" means the bona fide use of a mark in the ordinary course of trade. The term does not include use made merely to reserve a right in a mark.*

*2.* A mark is deemed to be ~~["used"]~~ *in "use"* in this State:

~~[1.]~~ *(a)* On goods when ~~[it]~~ *the mark* is placed in any manner on the goods, their containers, the displays associated with them or on the tags or labels affixed to them *or, if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale,* and the goods are sold or ~~[otherwise distributed in the]~~ *transported in commerce in this* State; and

~~[2.]~~ *(b)* On services when ~~[it]~~ *the mark* is used or displayed in the sale or advertising of services and the services are rendered in this State.

*Sec. 37.* *NRS 600.330 is hereby amended to read as follows:*

600.330 A mark must not be registered if it:

1. Contains immoral, deceptive or scandalous matter.

2. Contains matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs ~~[,]~~ *or* national symbols or which may bring them into contempt or disrepute.

3. Resembles or simulates the flag *, the coat of arms* or other insignia of the United States, or of any state or municipality, or of any foreign nation.

4. Contains the name, signature or portrait of any living person, except when ~~[his]~~ *the* written consent *of the person* has been obtained.

5. Consists of a mark which:

(a) When applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them;

(b) When applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or

(c) Is primarily merely a surname,

➥ but this subsection does not prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. Proof of continuous use of the mark by the applicant in this State or elsewhere for 5 years next preceding the date of the filing of the application for registration may be accepted by the Secretary of State as evidence that the mark has become distinctive.

6. So resembles a mark registered in this State which has not been abandoned ~~[,]~~ that it is likely that confusion, mistake or deception may result.

*Sec. 38.* *NRS 600.340 is hereby amended to read as follows:*

600.340 1. A person who has adopted and is using a mark in this State may file in the Office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) Whether the mark to be registered is a trademark, trade name or service mark;

(b) A description of the mark by name, words displayed in it or other information;

(c) The name and business address of the person applying for the registration and, if it is a corporation, limited-liability company, limited partnership or registered limited-liability partnership, the state of incorporation or organization;

(d) The specific goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with those goods or services and the class as designated by the Secretary of State which includes those goods or services;

(e) The date when the mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business which must precede the filing of the application; and

(f) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as might deceive or cause mistake.

2. The application must:

(a) Be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

(b) Be accompanied by a specimen or facsimile of the mark on white paper that is 8 1/2 inches by 11 inches in size and by a filing fee ~~[of $100 payable to the Secretary of State.]~~ *in the amount prescribed pursuant to section 24 of this act.*

3. If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

*Sec. 39. NRS 600.340 is hereby amended to read as follows:*

600.340 1. ~~[A]~~ *Subject to the limitations set forth in NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a* person who has adopted and is using a mark in this State may file in the Office of the Secretary of State, on a form ~~[to be furnished]~~ *prescribed* by the Secretary of State, an application for registration of that mark . ~~[setting forth,]~~ *The application must include*, but *is* not limited to, the following information:

(a) ~~[Whether the mark to be registered is a trademark, trade name or service mark;~~

~~(b) A description]~~ *An identification* of the mark by name, words displayed in it or other information ~~[,]~~ *necessary to specify the elements for which trademark or service mark protection is sought.*

*(b) A drawing or other representation of the mark which complies with such requirements as the Secretary of State may specify. The drawing must depict the mark sought to be registered in:*

*(1) Standard typed characters if the mark is a word mark; or*

*(2) A special form drawing if the mark features design elements, special fonts, color or other noncharacter elements.*

➥ *After registration, the registrant may not change the drawing of the mark if the change constitutes a material alteration of the mark such that the altered mark creates a different commercial impression and those persons on notice of the original registration would need a new notice to be adequately informed of the registrant's claim of rights.*

(c) The name and business address of the person applying for the registration and, if ~~[it]~~ *the person* is a ~~[corporation, limited liability company, limited partnership or registered limited liability partnership,]~~ *business or legal entity,* the state of incorporation or organization ~~[,]~~ *and the names of the officers, general partners or managing members of the business or legal entity, as specified by the Secretary of State.*

(d) The specific goods or services *on or* in connection with which the mark is used and the mode or manner in which the mark is used *on or* in connection with those goods or services and the class as designated by the Secretary of State *pursuant to NRS 600.400* which includes those goods or services *.* ~~[.]~~

(e) The date when the mark was first used anywhere and the date when ~~[it]~~ *the mark* was first used in this State by the applicant or ~~[his]~~ *the applicant's* predecessor in ~~[business which]~~ *interest, provided that the date when the mark was first used in this State* must precede the filing of the application *.* ~~[; and]~~

(f) A statement that ~~[the]~~ *:*

*(1) The* applicant is the owner of the mark *;*

*(2) The mark is in use in this State;* and ~~[that]~~

*(3) To the knowledge of the person signing the application,* no other person ~~[has]~~ *:*

*(I) Holds a federal or Nevada state registration for the mark for similar goods or services with a filing date that predates the applicant's first use of the mark in this State; or*

*(II) Has* the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as ~~[might deceive or cause mistake.]~~ *to be likely, when applied to the goods or services of the other person, to cause confusion, mistake or deception.*

2. *The Secretary of State may require the applicant to submit with the application a statement as to whether an application to register the mark, or portions or a composite of the mark, has been filed by the applicant or the applicant's predecessor in interest with the United States Patent and Trademark Office. If such a statement is required, the statement must set*

*forth full particulars with respect to each application, including, but not limited to:*

*(a) The filing date, serial number and current status of each application; and*

*(b) If any application resulted in the mark being denied registration or otherwise resulted in the mark not being registered, the reasons for the denial or the mark not being registered.*

*3.* The application must ~~[:~~

~~(a) Be signed]~~ *be:*

*(a) Signed* and verified *under penalty of perjury* by the applicant or *, if the applicant is a business or legal entity,* by ~~[a]~~ *a natural person with legal authority to bind the business or legal entity, including, but not limited to:*

*(1) An officer, general partner or managing* member of the ~~[firm or an officer of the corporation or association applying.~~

~~(b) Be accompanied]~~ *business or legal entity;*

*(2) A designated employee of the business or legal entity responsible for its marks; or*

*(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;*

*(b) Accompanied* by a specimen ~~[or facsimile of]~~ *which shows* the mark ~~[on white paper that is 8 1/2 inches by 11 inches in size and]~~ *as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and*

*(c) Accompanied* by a filing fee in the amount prescribed pursuant to section 24 of this act.

~~[3.]~~ *4.* If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

*Sec. 40. NRS 600.343 is hereby amended to read as follows:*

600.343 1. A specimen accompanying an application for ~~[the]~~ registration of a mark *or an application for renewal of the registration* must meet the following criteria:

(a) The specimen must ~~[agree]~~ *:*

*(1) Agree* with the mark as described in the application ~~[, must agree]~~ *for registration of the mark or as depicted in the drawing or other representation of the mark included with that application;*

*(2) Agree* with the mark as used ~~[, and evidence]~~ *; and*

*(3) Evidence* use of the mark.

(b) ~~[If the specimen is a drawing, it must be a substantially exact representation of the mark as actually used.~~

~~(c)]~~ The specimen must fit on a page of paper ~~[not larger than]~~ *that measures* 8 1/2 inches by 11 inches.

~~[(d) A specimen may be a facsimile or photograph of the mark.~~

~~(e)]~~

*(c)* The specimen must be suitable for reproduction, retention and retrieval.

2. ~~[After registration, an applicant may not change the specimen if the change constitutes a material alteration of the mark.]~~ *A specimen may be a facsimile or photograph of the mark if the specimen otherwise meets the criteria set forth in subsection 1. Acceptable specimens for goods include, but are not limited to, facsimiles or photographs of labels, tags, packaging or displays associated with the goods. Acceptable specimens for services include, but are not limited to, facsimiles or photographs of brochures, web pages, advertisements or signage associated with the services.*

*Sec. 41.* *NRS 600.350 is hereby amended to read as follows:*

600.350 1. Upon compliance by the applicant with the requirements ~~[of NRS 600.330 and 600.340,]~~ *for the registration of a mark pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act,* the Secretary of State shall issue and deliver a certificate of registration to the applicant. The certificate of registration must be issued under the signature of the Secretary of State and the seal of the State, and it must designate:

(a) The name and business address *of the owner of the mark* and, if *the owner is* a ~~[corporation, limited liability company, limited partnership or registered limited liability partnership,]~~ *business or legal entity,* the state of incorporation or organization *;* ~~[of the person claiming ownership of the mark;]~~

(b) The date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State;

(c) The class of goods or services to which the mark applies;

(d) A description of the goods or services on *or in connection with* which the mark is used;

(e) A reproduction of the mark;

(f) The registration date; and

(g) The term of the registration.

~~[2.]~~

*2.* If a date of first use contained in the application is indefinite, the certificate of registration must designate the latest definite date that can be inferred from the words used. If a month and year are given without specifying the day, the date is presumed to be the last day of the month. If only a year is given, the date is presumed to be the last day of the year.

~~[2.]~~ *3.* The certificate of registration or a copy of the certificate certified by the Secretary of State is admissible in evidence as competent and sufficient proof of the registration of the mark in any action or judicial proceedings in any court of this State, and raises a disputable presumption that the person to whom the certificate was issued is the owner of the mark in this State as applied to the goods or services described in the certificate.

*Sec. 42.* *NRS 600.355 is hereby amended to read as follows:*

600.355 1. If any statement in an application for registration of a mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate, signed by the registrant or his successor or by a member of the firm or an officer of the corporation or association to which the mark is registered, correcting the statement.

2. Upon the filing of a certificate of amendment or judicial decree of amendment and the payment of a filing fee ~~[of $60,]~~ *in the amount prescribed pursuant to section 24 of this act,* the Secretary of State shall issue, in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

*Sec. 43.* *NRS 600.355 is hereby amended to read as follows:*

600.355 1. If *, after registration of a mark, the registrant discovers that* any statement in ~~[an]~~ *the* application for registration of ~~[a]~~ *the* mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate ~~[, signed]~~ *of amendment correcting the application. The certificate of amendment must be:*

*(a) Signed and verified under penalty of perjury* by the registrant or ~~[his successor or by a member of the firm or an]~~ *, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:*

*(1) An* officer *, general partner or managing member* of the ~~[corporation or association to which the mark is registered, correcting the statement.]~~ *business or legal entity;*

*(2) A designated employee of the business or legal entity responsible for its marks; or*

*(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and*

*(b) Accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.*

2. *If, after registration of a mark, a court of competent jurisdiction enters a judicial decree amending the registration, the registrant or the party obtaining the judicial decree of amendment shall promptly file the judicial decree of amendment in the Office of the Secretary of State. The judicial decree of amendment must be accompanied by:*

*(a) A form prescribed by the Secretary of State which must be signed and verified under penalty of perjury by the registrant or the party obtaining the judicial decree or, if the registrant or party is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:*

*(1) An officer, general partner or managing member of the business or legal entity;*

*(2) A designated employee of the business or legal entity responsible for its marks; or*

*(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and*

*(b) A filing fee in the amount prescribed pursuant to section 24 of this act.*

*3.* Upon the filing of a certificate of amendment or judicial decree of amendment ~~[and the payment of a filing fee in the amount prescribed pursuant to section 24 of this act,]~~ *in accordance with this section,* the Secretary of State shall issue ~~[,]~~ *to the registrant*, in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

*Sec. 44. NRS 600.360 is hereby amended to read as follows:*

600.360 1. The registration of a mark is effective for 5 years from the date of registration and, upon application filed within 6 months before the expiration of that period, on a form to be furnished by the Secretary of State, the registration may be renewed for a successive period of 5 years. A renewal fee ~~[of $50, payable to the Secretary of State,]~~ *in the amount prescribed pursuant to section 24 of this act* must accompany the application for renewal of the registration.

2. The registration of a mark may be renewed for additional successive 5-year periods if the requirements of subsection 1 are satisfied.

3. The Secretary of State shall give notice to each registrant when his registration is about to expire. The notice must be given within the year next preceding the expiration date, by writing to the registrant's last known address.

4. All applications for renewals must include a statement that the mark is still in use in this State.

*Sec. 45. NRS 600.360 is hereby amended to read as follows:*

600.360 1. The registration of a mark is effective for 5 years from the date of registration . ~~[and, upon application filed]~~

*2. Except as otherwise provided in this subsection, upon the filing of an application for renewal of the registration in the Office of the Secretary of State* within 6 months before the expiration of ~~[that period,]~~ *the period of the registration,* on a form ~~[to be furnished]~~ *prescribed* by the Secretary of State, the registration may be renewed for a successive period of 5 years. ~~[A]~~ *The Secretary of State may adopt regulations to provide for alternative renewal periods which must not exceed 10 years.*

*3. The application for renewal of the registration must:*

*(a) Include a verified statement that the mark is still in use in this State;*

*(b) Be signed and verified under penalty of perjury by the registrant or, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:*

*(1) An officer, general partner or managing member of the business or legal entity;*

*(2) A designated employee of the business or legal entity responsible for its marks; or*

*(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;*

*(c) Be accompanied by a specimen which shows the mark as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and*

*(d) Be accompanied by a* renewal fee in the amount prescribed pursuant to section 24 of this act*.* ~~[must accompany the application for renewal of the registration.~~

~~2.]~~ *4.* The registration of a mark may be renewed for additional successive ~~[5-year]~~ periods if the requirements of ~~[subsection 1]~~ *this section* are satisfied.

~~[3.]~~ *5.* The Secretary of State ~~[shall give]~~ *may provide* notice to each registrant ~~[when his registration is about to expire. The]~~ *of the date on which the registrant's registration will expire. If such notice is provided, the* notice must be given within the ~~[year next]~~ *12 months immediately* preceding the expiration date ~~[, by writing]~~ *and delivered to the registrant by:*

*(a) Mail sent* to the registrant's last known address ~~[.~~

~~4. All applications for renewals must include a statement that the mark is still in use in this State.]~~ *; or*

*(b) If requested by the registrant, electronic mail or other electronic means.*

*6. If the application for renewal of the registration fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.*

*Sec. 46. NRS 600.370 is hereby amended to read as follows:*

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing;

(b) Be signed and acknowledged by the registrant or his successor or a member of the firm or an officer of the corporation or association under whose name the mark is registered; and

(c) Be recorded with the Secretary of State upon the payment of a fee ~~[of $100 to the Secretary of State who, upon]~~ *in the amount prescribed pursuant to section 24 of this act. Upon* recording the assignment, *the Secretary of State* shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

2. An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice, unless:

(a) The assignment is recorded with the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded before the subsequent purchase.

*Sec. 47.* *NRS 600.370 is hereby amended to read as follows:*

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing; *and*

(b) Be signed and acknowledged by the registrant or ~~[his successor or a member of the firm or]~~ *, if the registrant is a business or legal entity, by* an officer *, general partner or managing member* of the ~~[corporation or association under whose name the mark is registered; and~~

~~(c) Be recorded with]~~ *business or legal entity.*

*2. An assignment may be recorded in the Office of* the Secretary of State upon the payment of a *recording* fee in the amount prescribed pursuant to section 24 of this act. Upon recording the assignment, the Secretary of State shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

~~[2.]~~ *3.* An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice ~~[,]~~ unless:

(a) The assignment is recorded ~~[with]~~ *in the Office of* the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded *in the Office of the Secretary of State* before the subsequent purchase.

*4. An applicant or registrant whose name has changed may record in the Office of the Secretary of State a certificate of change of name. The certificate of change of name must be:*

*(a) On a form prescribed by the Secretary of State;*

*(b) Signed and verified under penalty of perjury by the applicant or registrant or, if the applicant or registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:*

*(1) An officer, general partner or managing member of the business or legal entity;*

*(2) A designated employee of the business or legal entity responsible for its marks; or*

*(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and*

*(c) Accompanied by a recording fee in the amount prescribed pursuant to section 24 of this act.*

*5. Upon recording a certificate of change of name, the Secretary of State shall issue:*

*(a) In the applicant's new name, a certificate verifying that the name on the application has changed.*

*(b) In the registrant's new name, an amended certificate of registration for the remainder of the period of the registration.*

*6. In the discretion of the Secretary of State, other instruments which relate to a registered mark or an application for registration of a mark, including, but not limited to, licenses, security interests or mortgages, may be recorded in the Office of the Secretary of State if the instrument is:*

*(a) In writing; and*

*(b) Signed and acknowledged by the parties to the instrument or, if any party is a business or legal entity, by an officer, general partner or managing member of the business or legal entity.*

*7. If an assignment or other instrument is acknowledged, the acknowledgment is prima facie evidence of the execution of the assignment or other instrument and, if the assignment or other instrument is recorded in the Office of the Secretary of State, the record is prima facie evidence of the execution of the assignment or other instrument.*

*8. If an assignment or other instrument otherwise meets the requirements for recording, a photocopy of the assignment or other instrument must be accepted for recording if the photocopy is certified as a true and correct copy of the original by a party to the assignment or other instrument or by a party's successor.*

*Sec. 48. NRS 600.380 is hereby amended to read as follows:*

600.380 The Secretary of State shall keep for public examination a record of ~~[all registered marks.]~~ *:*

*1. All marks registered or renewed by the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act; and*

*2. All other documents filed or recorded in the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.*

*Sec. 49. NRS 600.390 is hereby amended to read as follows:*

600.390 The Secretary of State shall cancel from the register:

1. ~~[After July 1, 1980, any filing or registration of a mark]~~ *Any registration which the registrant or the assignee of record voluntarily requests to be cancelled.*

*2. Any registration* which has expired and is not renewed in accordance with the provisions of NRS 600.360.

~~[2. Any registration which the registrant or the assignee of record voluntarily requests be cancelled.]~~

3. Any registration concerning which a court of competent jurisdiction finds that:

(a) The registered mark has been abandoned.

(b) The registrant is not the owner of the mark.

(c) The registration was granted improperly.

(d) The registration was obtained fraudulently.

(e) *The registered mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered.*

*(f)* The registered mark is likely to cause confusion or mistake or to deceive because of its similarity to a mark *which was* registered by another person in the United States Patent and Trademark Office ~~[,]~~ before the date of the filing of the application for registration by the registrant under NRS 600.240 to 600.450, inclusive, *and sections 14 to 28, inclusive, of this act* and *which has* not *been* abandoned. But if the registrant proves that he is the owner of a concurrent registration of his mark in the United States Patent and Trademark Office covering an area including this State, the registration with the Secretary of State must not be cancelled.

4. Any registration when a court of competent jurisdiction orders cancellation of the registration on any ground.

*Sec. 50. NRS 600.395 is hereby amended to read as follows:*

600.395 ~~[The fee for filing a]~~ *If a person requests* cancellation of *a* registration pursuant to NRS 600.390 ~~[is $50.]~~ *, the request must be accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.*

*Sec. 51. NRS 600.400 is hereby amended to read as follows:*

600.400 1. The Secretary of State ~~[may]~~ *shall* adopt regulations defining general classes of goods and services for which a mark may be registered. ~~[Classes defined pursuant to this subsection]~~ *The classes of goods and services adopted by the Secretary of State* are deemed to be for administrative convenience and must not be deemed to be exclusive or limit or extend the rights of the applicant or registrant. *To the extent practicable, the classes of goods and services adopted by the Secretary of State must conform to the classes of goods and services adopted by the United States Patent and Trademark Office in the administration of the federal Trademark Act.*

2. A single application for registration of a mark may include any goods within their class on which the mark is used, or any services within their class rendered in connection with the mark. If a mark is used for more than one class of goods or more than one class of services the applicant must file a separate application for each class.

*Sec. 52. NRS 600.410 is hereby amended to read as follows:*

600.410 Any person who *,* for himself ~~[,]~~ or on behalf of any other person, attempts to procure or procures the registration of any mark in this State *or the filing or recording of any document in the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act* by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, is liable for all damages sustained in consequence of the registration *or the filing or recording* to any party injured thereby.

*Sec. 53. NRS 600.420 is hereby amended to read as follows:*

600.420 Any person:

1. Who uses, without the consent of the ~~[registrant,]~~ *owner,* any reproduction, counterfeit, copy or colorable imitation of a mark registered in this State in connection with the sale, *distribution,* offering for sale or advertising of any goods or services ~~[,]~~ *on or in connection with* which *such* use is likely to cause confusion or mistake or result in deception as to the source of origin of such goods or services; or

2. Who reproduces, counterfeits, copies or colorably imitates any mark registered in this State and applies or causes to apply that reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used *on or* in ~~[conjunction]~~ *connection* with the sale or other distribution in this State of goods or services,

➥ is liable in a civil action by the owner of the registered mark for any or all of the remedies provided in NRS 600.430, except that the owner of the mark is not entitled to recover profits or damages ~~[under]~~ *for any act in violation of* subsection 2 unless the act or acts were committed with ~~[knowledge that the reproduction, counterfeit, copy or imitation of the mark was intended to be used]~~ *the intent* to cause confusion, mistake or deception.

*Sec. 54. NRS 600.430 is hereby amended to read as follows:*

600.430 1. Any owner of a mark registered in this State may proceed by suit to enjoin the manufacture, use, display or sale of counterfeits or imitations of ~~[it.]~~ *the mark.*

2. A court of competent jurisdiction may:

(a) Grant injunctions to restrain such manufacture, use, display or sale as it deems just and reasonable under the circumstances;

(b) Require the defendant to pay to the owner *of the mark* all profits derived from the wrongful acts of the defendant and all damages suffered by reason of these acts;

(c) Require the defendant to pay to the owner *of the mark* treble damages on all profits derived from the willful and wrongful acts of the defendant and treble damages on all damages suffered by reason of these acts; and

(d) Order that any counterfeits or imitations in the possession or control of any defendant be delivered ~~[for destruction]~~ to an officer of the court or ~~[to the complainant.]~~ *the owner of the mark for destruction.*

3. In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees to the prevailing party.

4. The enumeration of any right or remedy in this section does not affect ~~[a registrant's]~~ *the* right *of the owner of the mark* to prosecute under any penal law of this State.

*Sec. 55. NRS 600.435 is hereby amended to read as follows:*

600.435 1. Except as otherwise provided in subsection 4 ~~[,]~~ *and subject to the principles of equity,* the owner of a mark that is famous in this State may bring an action to enjoin commercial use of the mark by a person if such use:

(a) Begins after the mark has become famous; and

(b) ~~[Causes]~~ *Is likely to cause* dilution of the *famous* mark.

2. *A mark is famous in this State if it is distinctive, inherently or through acquired distinctiveness, and is widely recognized by the general consuming public of this State or a geographic area in this State as a designation of source of the goods or services of the owner of the mark.* In determining whether a mark is famous in this State, the court shall consider, ~~[without limitation,]~~ *but is not limited to,* the following factors:

(a) The ~~[degree of inherent or acquired distinctiveness of]~~ *amount, volume and geographic extent of sales of the goods or services offered under* the mark in this State.

(b) The duration ~~[and extent of use of the mark in connection with the goods and services with which the mark is used.~~

~~(c) The duration and extent of advertisement and promotion of the mark in this State.~~

~~(d) The geographical extent of the trading area in which the mark is used.~~

~~(e) The channels of trade for the goods or services with which the mark is used.~~

~~(f) The degree of recognition of the mark in the trading areas and channels of trade in this State used by the owner of the mark and the person against whom the injunction is sought.~~

~~(g)~~ *, extent and geographic reach of advertising and publicity of the mark in this State, whether the mark is advertised or publicized by the owner or other persons.*

*(c) The extent of actual recognition of the mark in this State.*

*(d)* The nature and extent of use of the same or similar mark by other persons.

~~[(h)]~~ *(e)* Whether the mark is registered in this State or registered in the United States Patent and Trademark Office pursuant to federal law.

3. ~~[Except as otherwise provided in this subsection,]~~ *In an action brought pursuant to this section,* the owner of a *famous* mark ~~[that is famous may obtain only]~~ *:*

*(a) Is entitled to* injunctive relief ~~[in an action brought pursuant to this section. The owner of a mark that is famous is entitled to the remedies provided in NRS 600.430 if]~~ *throughout the geographic area in which the mark is found to be famous, but not outside the borders of this State; and*

*(b) If* the person ~~[using the mark]~~ *against whom the injunctive relief is sought* willfully intended to cause dilution of the *famous* mark or willfully intended to trade on the reputation of the owner of the *famous* mark ~~[.]~~ *, is entitled to the remedies provided in NRS 600.430, subject to the discretion of the court and the principles of equity.*

4. The owner of a *famous* mark ~~[that is famous]~~ may not bring an action pursuant to this section ~~[for the]~~ *based on:*

*(a) The* fair use of the mark by another person ~~[in comparative commercial advertising]~~ *, unless the other person wrongfully uses the mark*

*as a designation of source for the person's own goods or services. For the purposes of this paragraph, fair use of the mark includes any nominative or descriptive fair use, or facilitation of such fair use, by the other person, including, but not limited to, use in connection with:*

*(1) Advertising* or promotion ~~[to identify the]~~ *that permits consumers to compare* competing goods or services of the owner of the mark ~~[.~~

~~5. As used in this section:~~

~~(a) "Commercial use" means use of a mark primarily for profit. The term does not include]~~ *; or*

*(2) Identifying and parodying, criticizing or commenting upon the owner of the mark or the goods or services of the owner of the mark.*

*(b) The noncommercial use of the mark by another person, including, but not limited to,* use of ~~[a]~~ *the* mark for research, criticism, news commentary, news reporting, teaching or any similar use that is not primarily for profit.

~~[ (b) "Dilution" means a lessening in the capacity of a mark that is famous to identify and distinguish goods or services, regardless of the presence or absence of:~~

~~(1) Competition between the owner of the mark and other persons; or~~

~~(2) Likelihood of confusion, mistake or deception as to the source of origin of goods or services.]~~

*Sec. 56. NRS 600.440 is hereby amended to read as follows:*

600.440 The rights and remedies enumerated in NRS 600.240 to 600.450, inclusive, *and sections 14 to 28, inclusive, of this act* are in addition to those to which an owner of a mark is entitled under the common law.

*Sec. 57. NRS 600.450 is hereby amended to read as follows:*

600.450 1. It is unlawful for any person *:* ~~[or corporation:]~~

(a) To imitate any mark registered as provided in NRS 600.240 to 600.450, inclusive ~~[,]~~ *, and sections 14 to 28, inclusive, of this act;*

(b) To use knowingly any counterfeit or imitation thereof;

(c) To use or display such genuine mark unless authorized to do so; or

(d) To use or display such genuine mark in a manner not authorized by the registrant.

2. Any person ~~[violating]~~ *who violates* any provision of subsection 1 is guilty of a misdemeanor.

~~[Sec. 13.]~~ *Sec. 58.* NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act*, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

~~[Sec. 14.]~~ *Sec. 59.* NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive.

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; ~~[and]~~

(b) *Any equitable relief that the court deems appropriate; and*

*(c)* His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

~~[Sec. 15.]~~ *Sec. 60.* NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, *without limitation*, returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

~~[Sec. 16.]~~ *Sec. 61.* NRS 489.401 is hereby amended to read as follows:

489.401 The following grounds, among others, constitute grounds for disciplinary action pursuant to NRS 489.381:

1. The intentional publication, circulation or display of any advertising which constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to 598.0925, inclusive.

2. Failure to include in any advertising the name of the licensed dealer, general serviceman or specialty serviceman, or the name under which he is doing business.

3. Making any substantial misrepresentation or false promise which is likely to influence, persuade or induce, or continually failing to fulfill promises to sell, breaching agreements or contracts or making false promises by any means.

4. Failure to disclose all terms and conditions of a sale, purchase or lease or offer to sell, purchase or lease a manufactured home, mobile home or commercial coach.

5. Failure to disclose to a person with whom the licensed dealer is dealing with regard to the sale, purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, purchase or lease of the manufactured home.

6. Failure to comply with the provisions of NRS 489.595.

7. Representing to any lender, guaranteeing agency or other interested party, orally or through the preparation of false documents:

(a) An amount in excess of the actual sales price;

(b) A false amount as the down payment, earnest money deposit or other valuable consideration;

(c) Terms differing from those actually agreed upon; or

(d) False information on a credit application.

8. Inducing an applicant to falsify his credit application.

9. Failure to obtain from the holder of any lien or security interest in a manufactured home, mobile home or commercial coach, within 10 days before the closure of a sale of the manufactured home, mobile home or commercial coach, a written acknowledgment that the holder of the lien or security interest has received written notification of the sale.

~~[Sec. 17.]~~ *Sec. 62.* NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

> Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

*Sec. 63.* *NRS 684B.040 is hereby amended to read as follows:*

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser must file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant must furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a business organization, the application must include the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

4. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

5. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive ~~[.]~~ *, and sections 14 to 28, inclusive, of this act.*

6. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

*Sec. 64.* *NRS 684B.040 is hereby amended to read as follows:*

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant shall furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a business organization, the application must show the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

3. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

4. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive ~~.~~ *, and sections 14 to 28, inclusive, of this act.*

5. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

*Sec. 65. Notwithstanding the provisions of this act to the contrary, the amount of each fee that was authorized before the effective date of this act pursuant to NRS 600.340, 600.355, 600.360, 600.370 and 600.395 must remain in effect and must be collected by the Secretary of State until such time as the Secretary of State adopts regulations pursuant to section 24 of this act prescribing the amount of those fees.*

*Sec. 66. The provisions of sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49 and 51 to 57, inclusive, of this act do not affect an action or proceeding commenced or right accrued before October 1, 2010.*

~~[Sec. 18.]~~ *Sec. 67. 1.* This ~~[act becomes]~~ *section and sections 24, 38, 42, 44, 46, 50, 63 and 65 of this act become effective upon passage and approval.*

*2. Sections 1 to 12, inclusive, and 58 to 62, inclusive, of this act become* effective on July 1, 2009.

*3. Sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49, 51 to 57, inclusive, and 66 of this act become effective on October 1, 2010.*

*4. Section 63 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures*

*under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:*

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

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

*5. Section 64 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:*

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

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

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

This amendment updates the State to the Model State Trademark Bill and the Federal Trademark Act.

The amendment makes changes to the persons who may register marks and the types of marks that may be registered. It also makes changes to the registration process. It provides protection for marks and prohibits certain practices regarding misuse of marks. The amendment allows the Secretary of State to charge certain fees related to the administration of laws related to trademarks by regulation. The amendment also stipulates that these changes are effective on October 1, 2010, and that the Secretary of State is authorized to make any regulations necessary to implement the changes upon passage and approval of this bill.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 146.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 875.

"SUMMARY—Provides for the establishment of a state business portal. (BDR 7-972)"

"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;]~~ and*

*(d) Include any other information that the Secretary of State deems necessary.*

➥ *If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.*

*3. The application must be signed pursuant to NRS 239.330 by:*

*(a) The owner of a business that is owned by a natural person.*

*(b) A member or partner of an association or partnership.*

*(c) A general partner of a limited partnership.*

*(d) A managing partner of a limited-liability partnership.*

*(e) A manager or managing member of a limited-liability company.*

*(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.*

*4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.*

*5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.*

*6. For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:*

*(a) Is organized pursuant to this title, other than a business organized pursuant to chapter 82 or 84 of NRS;*

*(b) Has an office or other base of operations in this State;*

*(c) Has a registered agent in this State; or*

*(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.*

*7. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.*

Sec. 12. *If a person fails to obtain a state business license and pay the fee required pursuant to section 11 of this act before conducting a business in this State and the person is:*

*1. An entity required to file an annual list with the Secretary of State pursuant to this title, the person:*

*(a) Shall pay a penalty of $100 in addition to the annual state business license fee;*

*(b) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and*

*(c) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default*

*and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in paragraph (a).*

*2. Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of $100 in addition to the annual state business license fee.*

Sec. 13. *1. A natural person is not required to obtain more than one state business license for any combination of activities conducted by that person which are reported to the Internal Revenue Service for any federal tax year on two or more of the forms described in paragraph (b) of subsection 1 of section 7 of this act.*

*2. As used in this section, "federal tax year" means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.*

Sec. 14. *1. A person who applies for renewal of a state business license shall submit a fee 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~~

~~(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.~~

~~4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.~~

~~5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.~~

~~6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:~~

~~(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;~~

~~(b) Has an office or other base of operations in this State; or~~

~~(c) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.~~

~~7.]~~ A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

Sec. 38. NRS 360.790 is hereby amended to read as follows:

360.790 The Department shall deposit all money it receives pursuant to NRS 360.760 to ~~[360.798,]~~ *360.796,* inclusive, in the State Treasury for credit to the State General Fund.

Sec. 39. NRS 360.795 is hereby amended to read as follows:

360.795 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration of NRS 360.760 to ~~[360.798,]~~ *360.796,* inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to ~~[360.798,]~~ *360.796,* inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to ~~[360.798,]~~ *360.796,* inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to ~~[360.798,]~~ *360.796,* inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Executive Director shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Department.

Sec. 40. NRS 372.220 is hereby amended to read as follows:

372.220 1. Every retailer who sells tangible personal property for storage, use or other consumption in this State shall register with the Department and give:

(a) The name and address of all agents operating in this State.

(b) The location of all distribution or sales houses or offices or other places of business in this State.

(c) Such other information as the Department may require.

2. Every business that purchases tangible personal property for storage, use or other consumption in this State shall, at the time the business obtains a business license pursuant to ~~[NRS 360.780,]~~ *sections 6 to 18, inclusive, of this act*, register with the Department on a form prescribed by the Department. As used in this section, "business" has the meaning ascribed to it in ~~[NRS 360.765.]~~ *section 7 of this act.*

Sec. 41. NRS 459.3824 is hereby amended to read as follows:

459.3824 1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the State Environmental Commission and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to NRS 459.3829; and

(b) If any regulations adopted pursuant to NRS 459.380 to 459.3874, inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the ~~[Department of Taxation]~~ *Secretary of State* upon compliance by the owner with ~~[NRS 360.780.]~~ *the provisions of sections 6 to 18, inclusive, of this act.*

6. All fees fines, penalties and other money collected pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant

thereto, other than a fine collected pursuant to subsection 3 of NRS 459.3834, must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

Sec. 42. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of ~~[NRS 360.780.]~~ *sections 6 to 18, inclusive, of this act.*

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

Sec. 43. Chapter 719 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Secretary of State may require a governmental agency of this State or a governmental agency of a political subdivision of this State, as a condition of participation in the state business portal established pursuant to sections 2, 3 and 4 of this act, to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.*

Sec. 44. NRS 719.350 is hereby amended to read as follows:

719.350 1. Except as otherwise provided in subsection 6 of NRS 719.290 ~~[,]~~ *and 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. ~~[To]~~ *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.

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

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

This bill requests the Secretary of State to establish business portals to facilitate interaction among businesses and governmental agencies.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 433.

Bill read second time.

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

Amendment No. 753.

"SUMMARY—Requires county hospitals in certain larger counties to provide outpatient cancer treatment as part of their care to indigent persons. (BDR 40-976)"

"AN ACT relating to ~~[county hospitals;]~~ *public health and safety;* requiring a county hospital in certain larger counties to provide outpatient cancer treatment as part of its care to indigent persons ~~[.]~~ *under certain circumstances; providing that failure to wear a safety belt is a primary traffic offense;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Counties are required through county hospitals to provide care to indigent persons. (NRS 428.010, 450.420) ~~[This]~~ *Section 1 of this* bill provides that in a county whose population is 400,000 or more (currently Clark County) the care provided by a county hospital must include the outpatient treatment of cancer if the indigent person is a resident of that county and was a resident of that county at the time the person was diagnosed with cancer, but clarifies that this does not prohibit the hospital from providing uncompensated care for the outpatient treatment of cancer to other persons. *Section 1 further provides that the duty to provide to indigent persons outpatient treatment for cancer applies only to the extent that the county hospital realizes a cost savings as a result of the amendatory provisions of sections 5 and 6 of this bill.*

*Under existing law, most drivers of and passengers in modern vehicles are required by law to wear safety belts. However, the failure to wear such safety belts is not, at the present time, a primary offense for which a vehicle may be halted. (NRS 484.641, 484.6415) Sections 5 and 6 of this bill make the failure*

*to wear a safety belt as prescribed by law a primary offense for which a vehicle may be halted.*

*Existing law establishes a uniform system of demerit points, which points are assigned to persons who commit certain moving traffic violations. (NRS 483.473) Section 3 of this bill provides that if a person who commits such a violation is in compliance with the primary safety belt law established pursuant to the amendatory provisions of sections 5 and 6, any demerit points which would otherwise be assigned to the driving record of that person must be reduced by one demerit point.*

*Sections 7 and 8 of this bill require the Legislative Commission to provide for studies of, respectively: (1) the incidence of racial profiling in the enforcement of the primary safety belt law; and (2) the efficacy and cost-savings associated with the primary safety belt law.*

*Section 10 of this bill requires University Medical Center to use the cost savings that it accrues as a result of the enactment of the primary safety belt law to pay the costs associated with providing cancer care to indigent persons as required by section 1, as well as allowing University Medical Center to pay other costs that it determines to represent areas of significant need.*

WHEREAS, *Traffic safety researchers have repeatedly shown that increasing safety belt use in passenger cars has the proven effect of saving lives, reducing injuries and reducing the staggering medical costs resulting from car accidents; and*

WHEREAS, *The National Highway Traffic Safety Administration (NHTSA) has found that safety belt use in passenger cars reduces the risk of death by 45 percent, the risk of serious injury by 50 percent, the severity of injuries by 400 to 500 percent and prevents ejection during an accident, 75 percent of which ejections result in the death of a passenger; and*

WHEREAS, *The NHTSA estimates that the adoption of primary safety belt laws, which allow an officer to stop a vehicle and issue a citation for the failure of a person to wear a safety belt, unlike secondary safety belt laws, which allow the issuance of such a citation only if a vehicle is first stopped for another infraction, would on a national level prevent 11,000 injuries and 800 deaths, and save approximately $2.5 billion each year; and*

WHEREAS, *It has been demonstrated repeatedly that the use of safety belts increases by 10 to 13 percent in states which have adopted a primary safety belt law, resulting in fewer accident-related deaths and injuries, and reduced associated costs; and*

WHEREAS, *Recognizing the benefits of primary safety belt laws, the United States Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act to encourage states to adopt such laws and, today, a majority of states have primary safety belt laws; and*

WHEREAS, *With specific regard to the State of Nevada, the NHTSA has found that if a primary safety belt law were to be enacted, in 2009 alone, the State would save approximately $1.6 million as a direct result of injuries*

*prevented, and the total savings to the State, medical patients and businesses would amount to approximately $6.9 million; and*

WHEREAS, *Similar to the findings of the Federal Government, the Office of Traffic Safety of the Department of Public Safety has also found that the enactment of a primary safety belt law would save countless lives, reduce injuries and save the State approximately $5.6 million over a 3-year period; and*

WHEREAS, *The adoption of this legislation would, in part, enable Nevada to receive $1.2 million in federal funds and finally join the majority of other states that have chosen to adopt primary safety belt laws to save lives and prevent injuries; and*

WHEREAS, *The statistics amassed and compiled by both the NHTSA and the Office of Traffic Safety lead to the conclusion that the adoption of a primary safety belt law would, by way of the reduction of injuries and deaths, and also a reduction in the needless overuse of medical facilities and personnel to treat entirely preventable automotive casualties, allow millions of dollars that are currently devoted to such purposes to be devoted instead to other medical crises and necessities; and*

WHEREAS, *It is the considered opinion of the Nevada Legislature that money saved through the enactment of a primary safety belt law could and should be used compassionately to provide cancer treatment to indigent persons; now, therefore,*

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

Section 1. NRS 450.420 is hereby amended to read as follows:

450.420 1. The board of county commissioners of the county in which a ~~[public]~~ *county* hospital is located may determine whether patients presented to the ~~[public]~~ *county* hospital for treatment are subjects of charity. Except as otherwise provided in NRS 439B.330, the board of county commissioners shall establish by ordinance criteria and procedures to be used in the determination of eligibility for medical care as medical indigents or subjects of charity.

2. ~~*[In]*~~ *Except as otherwise provided in this subsection, in each county whose population is 400,000 or more, a county hospital must provide outpatient cancer treatment to indigent persons who are residents of that county and were residents of that county at the time that they were diagnosed with cancer. This subsection* ~~*[does]*~~ *:*

*(a) Does not prohibit a county hospital from providing uncompensated care for the outpatient treatment of cancer to other persons.*

*(b) Requires a county hospital to provide outpatient cancer treatment to indigent persons only to the extent that the hospital realizes cost savings as the result of an increased use of safety belts pursuant to the provisions of NRS 484.641 and 484.6415, and any law amendatory thereof or supplementary thereto.*

*3.* The board of hospital trustees shall fix the charges for treatment of those persons able to pay for the charges, as the board deems just and proper. The board of hospital trustees may impose an interest charge of not more than 12 percent per annum on unpaid accounts. The receipts must be paid to the county treasurer and credited by him to the hospital fund. In fixing charges pursuant to this subsection the board of hospital trustees shall not include, or seek to recover from paying patients, any portion of the expense of the hospital which is properly attributable to the care of indigent patients.

~~[3.]~~ *4.* Except as provided in subsection ~~[4]~~ *5* of this section and subsection 3 of NRS 439B.320, the county is chargeable with the entire cost of services rendered by the hospital and any salaried staff physician or employee to any person admitted for emergency treatment, including all reasonably necessary recovery, convalescent and follow-up inpatient care required for any such person as determined by the board of trustees of the hospital, but the hospital shall use reasonable diligence to collect the charges from the emergency patient or any other person responsible for his support. Any amount collected must be reimbursed or credited to the county.

~~[4.]~~ *5.* The county is not chargeable with the cost of services rendered by the hospital or any attending staff physician or surgeon to the extent the hospital is reimbursed for those services pursuant to NRS 428.115 to 428.255, inclusive.

Sec. 2. NRS 450.425 is hereby amended to read as follows:

450.425 1. The board of county commissioners of a county in which a county hospital is established may, upon approval by a majority of the voters voting on the question in an election held throughout the county, levy an ad valorem tax of not more than 2.5 cents on each $100 of assessed valuation upon all taxable property in the county, to pay the cost of services rendered in the county by the hospital pursuant to subsection ~~[3]~~ *4* of NRS 450.420. The approval required by this subsection may be requested at any primary or general election.

2. Any tax imposed pursuant to this section is in addition to the taxes imposed pursuant to NRS 428.050, 428.185 and 428.285. The proceeds of any tax levied pursuant to this section are exempt from the limitations imposed by NRS 354.59811, 428.050 and 428.285 and must be excluded in determining the maximum rate of tax authorized by those sections.

*Sec. 3. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:*

*1. If:*

*(a) A peace officer halts a vehicle for a violation that is a moving traffic violation under NRS 483.473;*

*(b) The peace officer issues a citation for the moving traffic violation; and*

*(c) During such a traffic stop, the peace officer determines that the person cited is in compliance with the relevant provisions of NRS 484.641 or 484.6415, as applicable,*

➥ *the officer shall so notify the Department and the Department shall ensure that any demerit points which would otherwise be assigned as a result of the moving traffic violation are reduced by one demerit point.*

*2. As used in this section, "demerit point" means a point assigned to the driving record of a person pursuant to the uniform system established under NRS 483.473.*

*Sec. 4. NRS 483.010 is hereby amended to read as follows:*

483.010 The provisions of NRS 483.010 to 483.630, inclusive, *and section 3 of this act* may be cited as the Uniform Motor Vehicle Drivers' License Act.

*Sec. 5. NRS 484.641 is hereby amended to read as follows:*

484.641 1. It is unlawful to drive a passenger car manufactured after:

(a) January 1, 1968, on a highway unless it is equipped with at least two lap-type safety belt assemblies for use in the front seating positions.

(b) January 1, 1970, on a highway ~~[,]~~ unless it is equipped with a lap-type safety belt assembly for each permanent seating position for passengers. This requirement does not apply to the rear seats of vehicles operated by a police department or sheriff's office.

(c) January 1, 1970, unless it is equipped with at least two shoulder-harness-type safety belt assemblies for use in the front seating positions.

2. Any person driving, and any passenger who:

(a) Is 6 years of age or older; or

(b) Weighs more than 60 pounds, regardless of age,

➥ who rides in the front or back seat of any vehicle described in subsection 1, having an unladen weight of less than 10,000 pounds, on any highway, road or street in this State shall wear a safety belt if one is available for his seating position.

3. A citation must be issued to any driver or to any adult passenger who fails to wear a safety belt as required by subsection 2. If the passenger is a child who:

(a) Is 6 years of age or older but less than 18 years of age, regardless of weight; or

(b) Is less than 6 years of age but who weighs more than 60 pounds,

➥ a citation must be issued to the driver for his failure to require that child to wear the safety belt, but if both the driver and that child are not wearing safety belts, only one citation may be issued to the driver for both violations. ~~[A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense.]~~ Any person who violates the provisions of subsection 2 shall be punished by a fine of not more than $25 or by a sentence to perform a certain number of hours of community service.

4. A violation of subsection 2:

(a) Is not a moving traffic violation under NRS 483.473.

(b) May not be considered as negligence or as causation in any civil action or as negligent or reckless driving under NRS 484.377.

(c) May not be considered as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product.

*(d) May not be considered as a basis for cancellation of insurance coverage, increase in insurance rates or refusal to issue or renew a motor vehicle liability policy.*

*(e) May not be considered as a basis for diminishing any recovery for damages arising out of the ownership, maintenance, occupancy or operation of a motor vehicle.*

*(f) May not be considered as a basis for denial, in whole or in part, of benefits or payment of a claim submitted pursuant to a health insurance policy or health care plan.*

5. The Department shall exempt those types of motor vehicles or seating positions from the requirements of subsection 1 when compliance would be impractical.

6. *The provisions of subsections 2 and 3:*

*(a) Do not authorize a peace officer to halt a vehicle for the sole purpose of determining whether the driver of the vehicle or a passenger in the vehicle is not wearing a safety belt.*

*(b) Require that a peace officer have probable cause before the peace officer halts a vehicle for the primary offense of the driver of the vehicle or a passenger in the vehicle failing to wear a safety belt.*

*7.* The provisions of subsections 2 and 3 do not apply:

(a) To a driver or passenger who possesses a written statement by a physician certifying that he is unable to wear a safety belt for medical or physical reasons;

(b) If the vehicle is not required by federal law to be equipped with safety belts;

(c) To an employee of the United States Postal Service while delivering mail in the rural areas of this State;

(d) If the vehicle is stopping frequently, the speed of that vehicle does not exceed 15 miles per hour between stops and the driver or passenger is frequently leaving the vehicle or delivering property from the vehicle; or

(e) Except as otherwise provided in NRS 484.6415, to a passenger riding in a means of public transportation, including a school bus or emergency vehicle.

~~[7.]~~ *8.* It is unlawful for any person to distribute, have for sale, offer for sale or sell any safety belt or shoulder harness assembly for use in a motor vehicle unless it meets current minimum standards and specifications of the United States Department of Transportation.

*9. As used in this section, "motor vehicle liability policy" has the meaning ascribed to it in NRS 485.055.*

*Sec. 6. NRS 484.6415 is hereby amended to read as follows:*

484.6415 1. Any passenger 18 years of age or older who rides in the front or back seat of any taxicab on any highway, road or street in this State shall wear a safety belt if one is available for his seating position, except that this subsection does not apply:

(a) To a passenger who possesses a written statement by a physician certifying that he is unable to wear a safety belt for medical or physical reasons; or

(b) If the taxicab was not required by federal law at the time of initial sale to be equipped with safety belts.

2. A citation must be issued to any passenger who violates the provisions of subsection 1. ~~[A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense.]~~ Any person who violates the provisions of subsection 1 shall be punished by a fine of not more than $25 or by a sentence to perform a certain number of hours of community service.

3. A violation of subsection 1:

(a) Is not a moving traffic violation under NRS 483.473.

(b) May not be considered as negligence or as causation in any civil action or as negligent or reckless driving under NRS 484.377.

(c) May not be considered as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product.

*(d) May not be considered as a basis for cancellation of insurance coverage, increase in insurance rates or refusal to issue or renew a motor vehicle liability policy.*

*(e) May not be considered as a basis for diminishing any recovery for damages arising out of the ownership, maintenance, occupancy or operation of a motor vehicle.*

*(f) May not be considered as a basis for denial, in whole or in part, of benefits or payment of a claim submitted pursuant to a health insurance policy or health care plan.*

4. *The provisions of subsection 1:*

*(a) Do not authorize a peace officer to halt a taxicab for the sole purpose of determining whether a passenger in the taxicab is not wearing a safety belt.*

*(b) Require that a peace officer have probable cause before the peace officer halts a taxicab for the primary offense of a passenger in the taxicab failing to wear a safety belt.*

*5.* An owner or operator of a taxicab shall post a sign within each of his taxicabs advising passengers that they must wear safety belts while being transported by the taxicab. Such a sign must be placed within the taxicab so as to be visible to and easily readable by passengers, except that this subsection does not apply if the taxicab was not required by federal law at the time of initial sale to be equipped with safety belts.

*6. As used in this section, "motor vehicle liability policy" has the meaning ascribed to it in NRS 485.055.*

*Sec. 7. 1. The Legislative Commission shall provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the enforcement of NRS 484.641 and 484.6415, as amended by sections 5 and 6 of this act, respectively.*

*2. The study must include, without limitation:*

*(a) An examination of whether there is evidence that racial profiling plays a part, either directly or indirectly, in the enforcement of NRS 484.641 and 484.6415, as amended by sections 5 and 6 of this act, respectively.*

*(b) Gathering of information on the number of traffic stops carried out for primary seat belt offenses, including, without limitation:*

*(1) The number of citations issued.*

*(2) The sex, race and age of the persons to whom citations were issued.*

*(c) An examination of any other matter that the Audit Division of the Legislative Counsel Bureau determines to be relevant to the study.*

*3. The study described in subsection 2 must be carried out in consultation with:*

*(a) State and local law enforcement agencies.*

*(b) The Chairman of the Senate Standing Committee on Energy, Infrastructure and Transportation during the immediately preceding session of the Legislature.*

*(c) The Chairman of the Assembly Standing Committee on Transportation during the immediately preceding session of the Legislature.*

*(d) The American Civil Liberties Union.*

*(e) The National Association for the Advancement of Colored People.*

*(f) The Nevada District Attorneys Association.*

*(g) The Nevada State Public Defender's Office within the Department of Health and Human Services.*

*4. The Legislative Auditor shall determine, receive and process any data that the Legislative Auditor determines is necessary for the conduct of the study.*

*5. Not later than June 30, 2010, the staff of the Legislative Counsel Bureau shall submit a report of the results of the study conducted pursuant to this section and any recommendations for legislation to the Legislative Commission. The Legislative Commission shall submit the report and any recommendations for legislation to the 76th Session of the Nevada Legislature.*

*6. As used in this section, "racial profiling" has the meaning ascribed to it in NRS 289.820.*

*Sec. 8. 1. The Legislative Commission shall provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the efficacy of NRS 484.641 and 484.6415, as amended by sections 5 and 6 of this act, respectively.*

*2. The study must include, without limitation:*

*(a) An examination of whether the provisions of NRS 484.641 and 484.6415, as amended by sections 5 and 6 of this act, respectively, and their enforcement, reduce or do not reduce:*

*(1) Morbidity and mortality as among drivers of and passengers in passenger vehicles and taxicabs.*

*(2) Costs incurred by individual persons, insurers and medical facilities.*

*(b) An examination of any other matter that the Audit Division of the Legislative Counsel Bureau determines to be relevant to the study.*

*3. The study described in subsection 2 must be carried out in consultation with:*

*(a) The Office of Traffic Safety of the Department of Public Safety.*

*(b) The chairman of the Senate Standing Committee on Energy, Infrastructure and Transportation during the immediately preceding session of the Legislature.*

*(c) The chairman of the Assembly Standing Committee on Transportation during the immediately preceding session of the Legislature.*

*(d) The University of Nevada, Reno.*

*(e) The University of Nevada, Las Vegas.*

*(f) State and local law enforcement agencies.*

*4. The Legislative Auditor shall determine, receive and process any data that the Legislative Auditor determines is necessary for the conduct of the study.*

*5. Not later than June 30, 2010, the staff of the Legislative Counsel Bureau shall submit a report of the results of the study conducted pursuant to this section and any recommendations for legislation to the Legislative Commission. The Legislative Commission shall submit the report and any recommendations for legislation to the 76th Session of the Nevada Legislature.*

*Sec. 9. State and local law enforcement agencies, in cooperation with the Department of Transportation, the Department of Motor Vehicles, nonprofit organizations and interested private-sector entities, shall coordinate and conduct a campaign to inform the public of the provisions of NRS 484.641 and 484.6415, as amended by sections 5 and 6 of this act, respectively.*

*Sec. 10. 1. University Medical Center shall determine the cost savings, if any, that it accrues as a result of the provisions of NRS 484.641 and 484.6415, as amended by sections 5 and 6 of this act, respectively.*

*2. University Medical Center shall use the cost savings described in subsection 1:*

*(a) To pay for the cost of carrying out the provisions of NRS 450.420, as amended by section 1 of this act; and*

*(b) To pay other costs that, in the determination of University Medical Center, represent the greatest areas of need.*

➥ *University Medical Center has sole discretion to determine in what proportion to allocate money as between the purposes described in paragraphs (a) and (b).*

~~[Sec. 3.]~~ *Sec. 11.* ~~[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.]~~ *(Deleted by amendment.)*

~~[Sec. 4.]~~ *Sec. 12.* *1.* This act becomes effective *upon passage and approval and expires by limitation* on July 1, ~~[2009.]~~ *2011*.

*2. Section 5 of this act expires by limitation on the date the Federal Government rescinds the requirements for the installation of automatic restraints in new private passenger motor vehicles, if that action is based upon the enactment or continued operation of certain amendatory and transitory provisions contained in chapter 480, Statutes of Nevada 1987.*

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan and Carlton.

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

SENATOR NOLAN:

Assembly Bill No. 433 initially provided for the recuperation of funds that had been discontinued for the treatment of oncology at the University Medical Center (UMC) in Las Vegas. The bill was laudable, but members of the Senate Committee on Health and Education took no action. The fiscal note was about $25 million, and it was not feasible.

This amendment establishes a new bill that creates a study for the efficacy of the use of seat belts and the primary enforcement of their use. The amendment would create a two-year study where the bill would sunset following the next legislative session. The study would be a two-part study.

The first would be conducted to determine whether or not racial profiling, an issue raised by many members of this body and the Assembly, exists on behalf of law enforcement with the enforcement of primary seatbelts. The members who would make up that study include the National Association for the Advancement of Colored People, representatives of the American Civil Liberties Union, the district attorneys and public defenders, law enforcement and other interested parties.

The second part of the study would be to determine the efficacy or not of the reduction or not of morbidity, mortality rates, with the use of seatbelts and primary enforcement and also the costs that were incurred or saved by individuals, insurers and medical facilities.

During the period of the study, any individuals who were stopped and issued a citation for any moving violation, if they were wearing their seatbelt, would have one demerit point reduced. This is a rewrite of the North Dakota statute. The bill includes some provisions to ensure that the use or not of seatbelts would not be considered in the cancellation of insurance, reduction of recovery of damages that may arise out of a vehicle accident or the denial of any benefits.

This is a departure from the bill that was originally passed by this body a month ago. The bill passed was an enactment of the Primary Seatbelt Bill. None of these amendments was included in the discussion here. In the Assembly, these were things that were discussed, but this amendment was never heard. The State, law enforcement, Nevada Department of Transportation and medical providers incur $70 million in debt because of uninsured and underinsured motorists who are injured or killed in motor vehicle accidents in this State. UMC indicated that during the last three years they spent $20 million to $25 million to treat uninsured and underinsured motorists who were not wearing seatbelts. That is a significant impact to our communities and to our medical providers who have to cancel services such as oncology.

I cannot vote for any revenue enhancement that might come before this body when we have savings that can be realized simply. This measure is a study that would sunset after two years if the Legislature elects not to continue with primary seatbelt enforcement.

SENATOR CARLTON:

Thank you, Mr. President. I can understand my colleague's passion for primary seatbelts. We have disagreed on this point for as long as we have been in this body. I am concerned we are tying together indigent care for cancer patients to the money that might be saved on people wearing seatbelts. What does it mean on page 4, lines 30-34? It requires a county hospital to provide outpatient cancer treatment to indigent persons only to the extent that the hospital realizes cost savings as a result of increased use of seatbelts. How can we figure out what that amount is? Why are we tying treatment of poor people for cancer to wearing seatbelts? We should be treating them anyway. That is what the county hospital is for. Just because you put a law on the books does not mean people will wear seatbelts. It means they will get a ticket. It does not mean we will save lives. I find this provision insulting to cancer patients.

SENATOR NOLAN:

The bill that was initiated for the treatment of indigent cancer patients was initiated as a result of the lack of funds. This State and our communities are in a financial crisis. The outlook is bleak even with the measures we take here. There are other services beside cancer that are being cancelled in both northern and southern Nevada for indigent patients because the funds are not there.

The nexus was easy. It costs $25 million a year for UMC to provide a full spectrum of oncology services to indigent patients. They have recovered much of those costs. They have been able to put treatment together for oncology, and I do not know why you would find it offensive for us to try to find other ways to save UMC money. They have indicated that they spend $25 million a year treating uninsured and underinsured trauma patients. I have brought people to the Center who have had to be put on a ventilator for four months, undergo multiple surgeries, exceed their insurance policy limits. Imagine after three or four of these a month what the costs are. We do not know what kinds of savings we can realize with this, and that is why there is a study in here to determine what the efficacy is and how much money can be saved. In every state that has gone from a secondary to a primary seatbelt law, they have seen a 10-15 percent reduction in fatalities. There are many people who actually believe that a secondary law allows them not to wear a seatbelt. If it works for 10 or 15 other states, it will work for Nevada.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 458.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 883.

"SUMMARY—Revises various provisions relating to funding for public education. (BDR 31-685)"

"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,*

➥ *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. ~~[In]~~ *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 ~~[or 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 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 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 ~~[or 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 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. If]~~

*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.

Senator Mathews moved the adoption of the amendment.

Remarks by Senators Mathews and Raggio.

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

SENATOR MATHEWS:

This revises provisions relating to the funding for public education.

SENATOR RAGGIO:

We also processed another bill, which creates a Stabilization Fund for K-12. The Stabilization Fund is the State Rainy Day Fund. This says that if there is a shortfall or an emergency declared pursuant to the provisions of the law, the initial allocations would come out of the Stabilization Fund for K-12. If that money was not sufficient, then the funds would be distributed from the State Rainy Day Fund. This amendment establishes a priority for such an allocation in the event of a shortfall.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Mathews moved that all necessary rules be suspended, and that Assembly Bill No. 458 be declared an emergency measure under the Constitution and placed on the General File for third reading and final passage upon return from reprint for this legislative day.

Motion carried unanimously.

## NOTICE OF EXEMPTION

May 16, 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*

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 433 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Care moved that Senate Bill No. 358 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 421.

Bill read third time.

Roll call on Senate Bill No. 421:
YEAS—20.
NAYS—Amodei.

Senate Bill No. 421 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 165.
Bill read third time.
Roll call on Assembly Bill No. 165:
YEAS—21.
NAYS—None.

Assembly Bill No. 165 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 243.
Bill read third time.
Roll call on Assembly Bill No. 243:
YEAS—15.
NAYS—Amodei, Cegavske, Hardy, McGinness, Nolan, Washington—6.

Assembly Bill No. 243 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 262.
Bill read third time.
The following amendment was proposed by Senator Care:
Amendment No. 818.
"SUMMARY—Makes various changes concerning ~~[the issuance of]~~ marriage . ~~[licenses.]~~ (BDR 11-961)"
"AN ACT relating to marriage; ~~[authorizing certain persons to issue marriage licenses in certain counties;]~~ allowing certain married persons to remarry each other; revising provisions governing the documentation a person is required to present to obtain a marriage license; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
~~[ Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) Sections 1-1.7 of this bill provide that in counties whose population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel. Sections 1.4, 3, 5.2, 5.4, 5.43 and 5.6 of this bill provide that a marriage license issued by a marriage licensing agent is valid~~

~~only in the county in which the commercial wedding chapel employing the marriage licensing agent is located.]~~

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) Section 1.9 of this bill provides that if a male and female are the husband and wife of each other and the record of their marriage has been lost or destroyed or is otherwise unobtainable, they may be rejoined in marriage. Section 5.47 of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.

Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate. (NRS 122.040)

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

Section 1. ~~[Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.]~~ *(Deleted by amendment.)*

Sec. 1.1. ~~*[As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.]*~~ *(Deleted by amendment.)*

Sec. 1.2. ~~*["Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.]*~~ *(Deleted by amendment.)*

Sec. 1.3. ~~*["Marriage licensing agent" means a person certified pursuant to section 1.4 of this act to issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel.]*~~ *(Deleted by amendment.)*

Sec. 1.4. ~~*[1. In a county whose population is less than 400,000, the county clerk may establish a program for the certification of persons as marriage licensing agents. If the county clerk establishes such a program, the county clerk may certify a person as a marriage licensing agent.*~~

~~*2. A marriage licensing agent may issue marriage licenses only during the course, and within the scope, of his employment at a commercial wedding*~~

~~*chapel and in accordance with the provisions of this chapter and regulations adopted by the county clerk.*~~

~~*3. A marriage licensing agent who issues a marriage license must state on the marriage license the name of the commercial wedding chapel that employs him and the county in which that commercial wedding chapel is located.*~~

~~*4. The persons to whom a marriage licensing agent has issued a marriage license may not be joined in marriage in any county other than the county stated on the marriage license pursuant to subsection 3.*~~

~~*5. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.*~~

~~*6. If the county clerk establishes a program for the certification of persons as marriage licensing agents pursuant to subsection 1, the county clerk:*~~

~~*(a) Shall establish a course of training for applicants for certification as marriage licensing agents.*~~

~~*(b) Shall adopt regulations establishing standards of practice for marriage licensing agents.*~~

~~*(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.*~~

~~*7. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.*~~

~~*8. In addition to any other remedy or penalty, the county clerk may:*~~

~~*(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or*~~

~~*(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.]*~~ *(Deleted by amendment.)*

Sec. 1.5. ~~*[1. An applicant for certification as a marriage licensing agent must:*~~

~~*(a) Be at least 21 years of age.*~~

~~*(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.*~~

~~*(c) Not have been convicted of a felony.*~~

~~*(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the*~~

~~*applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.*~~

~~*(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.*~~

~~*(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.4 of this act and complete the training course. The county clerk shall establish the fee for the training program, which must not exceed $100.*~~

~~*(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.*~~

~~*2. A marriage licensing agent shall:*~~

~~*(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;*~~

~~*(b) Collect from an applicant for a marriage license all fees required by law to be collected;*~~

~~*(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and*~~

~~*(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.]*~~ *(Deleted by amendment.)*

Sec. 1.6. ~~*[1. An applicant for certification as a marriage licensing agent shall submit to the county clerk 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 county clerk shall include the statement required pursuant to subsection 1 in:*~~

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

~~*(b) A separate form prescribed by the county clerk.*~~

~~*3. A certificate may not be issued by the county clerk if the applicant:*~~

~~*(a) Fails to complete or 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 county clerk shall advise the applicant to contact the district attorney or other public agency enforcing the*~~

~~*order to determine the actions that the applicant may take to satisfy the arrearage.]*~~ *(Deleted by amendment.)*

Sec. 1.7. ~~*[1. If the county clerk 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 has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*~~

~~*2. The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.]*~~ *(Deleted by amendment.)*

Sec. 1.8. ~~[NRS 122.002 is hereby amended to read as follows:~~

~~122.002 [As used in this chapter, "commissioner]~~ ~~*"Commissioner* township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.]~~ *(Deleted by amendment.)*

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~[A]~~ *Except as otherwise provided in this section, a* male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. *A male and a female person who are the husband and wife of each other may be rejoined in marriage if the record of their marriage has been lost or destroyed or is otherwise unobtainable.*

*3.* A person at least 16 years of age but less than 18 years of age may marry only if he has the consent of:

(a) Either parent; or

(b) His legal guardian.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. ~~*[or from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.]*~~ Except as otherwise provided

in this subsection , ~~*[and section 1.4 of this act,]*~~ the license must be issued at the county seat of that ~~*[a]*~~ county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~[Before]~~ *Except as otherwise provided in this section, before* issuing a marriage license, the county clerk ~~*[or marriage licensing agent]*~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~*[or marriage licensing agent]*~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~[a]~~ *:*

*(1) Any* secondary ~~[form of identification]~~ *document* that contains the name *and a photograph* of the applicant ~~[.]~~ *; or*

*(2) Any document for which identification must be verified as a condition to receipt of the document.*

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~[the county clerk determines]~~ provides ~~[proof of]~~ the applicant's name and age. *If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.*

3. Except as otherwise provided in subsection 4, the county clerk ~~*[or marriage licensing agent]*~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The

county clerk ~~*[or marriage licensing agent]*~~ shall *, except as otherwise provided in this subsection,* require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~*[or marriage licensing agent]*~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. *The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.*

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, ~~*[or marriage licensing agent,]*~~ the county clerk ~~*[or marriage licensing agent]*~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, ~~*[or marriage licensing agent,]*~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. ~~*[or marriage licensing agent.]*~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~*[or marriage licensing agent]*~~ in writing. If the county clerk ~~*[, the marriage licensing agent]*~~ or the district court waives the requirements of subsection 3, the county clerk ~~*[or marriage licensing agent]*~~ shall require the applicant who is able to appear before the county clerk ~~*[or marriage licensing agent]*~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~*[or marriage licensing agent]*~~ shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. *The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.*

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~*[or marriage licensing agent]*~~ shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~*[or marriage licensing agent]*~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. *If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk ~~[or marriage licensing agent]~~ shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.*

*7.* If the authorization of a district court is required, the county clerk ~~*[or marriage licensing agent]*~~ shall issue the license if that authorization is given to him in writing.

~~[7.]~~ *8.* All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~[8.]~~ *9.* A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. ~~[NRS 122.040 is hereby amended to read as follows:~~

~~122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State . [or from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.] Except as otherwise provided in this subsection , [and section 1.4 of this act,] the license must be issued at the county seat of a county. The board of county commissioners:~~

~~(a) In a county whose population is 400,000 or more:~~

~~(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and~~

~~(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.~~

~~(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.~~

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk [or marriage licensing agent] shall require each applicant to provide proof of the applicant's name and age. The county clerk [or marriage licensing agent] may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk [or marriage licensing agent] issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk [or marriage licensing agent] shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk [or marriage licensing agent] shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk [or marriage licensing agent] shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk , [or marriage licensing agent,] the county clerk [or marriage licensing agent] may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk [or marriage licensing agent,] or may refer the

~~applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk .~~ [or marriage licensing agent.] ~~If the district court waives the requirements of subsection 3, the district court shall notify the county clerk~~ [or marriage licensing agent] ~~in writing. If the county clerk~~ [, the marriage licensing agent] ~~or the district court waives the requirements of subsection 3, the county clerk~~ [or marriage licensing agent] ~~shall require the applicant who is able to appear before the county clerk~~ [or marriage licensing agent] ~~to:~~

~~(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.~~

~~(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk~~ [or marriage licensing agent] ~~shall not require any evidence to verify a social security number.~~

~~*. If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk~~ [or marriage licensing agent] ~~shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.~~

~~5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk~~ [or marriage licensing agent] ~~shall issue the license if the consent of the parent or guardian is:~~

~~(a) Personally given before the clerk;~~

~~(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk~~ [or marriage licensing agent] ~~and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or~~

~~(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.~~

~~6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk~~ [or marriage licensing agent] ~~shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.~~

~~7. If the authorization of a district court is required, the county clerk [or marriage licensing agent] shall issue the license if that authorization is given to him in writing.~~

~~8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.~~

~~9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.]~~ *(Deleted by amendment.)*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. ~~[NRS 122.045 is hereby amended to read as follows:~~

~~122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than $25 for the preparation of an affidavit of correction.~~

~~2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk[ .] *or marriage licensing agent.*~~

~~3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund.]~~ *(Deleted by amendment.)*

Sec. 5.2. ~~[NRS 122.050 is hereby amended to read as follows:~~

~~122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:~~

~~MARRIAGE LICENSE~~

~~(EXPIRES 1 YEAR AFTER ISSUANCE)~~

~~State of Nevada )~~
~~)ss.~~
~~County of )~~

~~These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection[ 3] *4* of NRS 122.080, or a municipal judge if authorized pursuant to subsection[ 4].5 of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage *in . . . . (If the license is issued by a county clerk, any county of this State; if the license is issued by a marriage licensing agent, the name of the county in which the commercial wedding chapel that employs the marriage licensing agent is located), (Name of applicant)* .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And (*Name*~~

~~*of applicant)* .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where ....; and to certify~ the marriage ~~according to law.~~

~~Witness my hand and the seal of the county *or signature of the marriage licensing agent,* this ... day of the month of ..... of the year .....~~

~~.....~~

~~(Seal) Clerk or *(Signature) Marriage Licensing Agent*~~

~~.....~~

~~Deputy clerk.~~

~~.....~~

~~*Name of Commercial Wedding Chapel, if applicable]~~ *(Deleted by amendment.)*

Sec. 5.3. ~~[NRS 122.055 is hereby amended to read as follows:~~

~~122.055 1. The county clerk *or marriage licensing agent* may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.~~

~~2. The county clerk *or marriage licensing agent* shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.]~~ *(Deleted by amendment.)*

Sec. 5.35. NRS 122.061 is hereby amended to read as follows:

122.061 1. In any county whose population is 100,000 or more, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 ~~[p.m.]~~ *a.m.* every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

Sec. 5.4. ~~[NRS 122.062 is hereby amended to read as follows:~~

~~122.062 1. [Any] *Except as otherwise provided in this subsection, any* licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this [state,] *State*, may join together as husband and wife persons who present a marriage license obtained from any county clerk *in this State or marriage licensing agent,* [of the State,] if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. *If the persons who present the marriage license have obtained the marriage license from a marriage licensing agent, the minister may join together as*~~

~~*husband and wife those persons only in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.* The fact that a minister is retired does not disqualify him from obtaining a certificate of permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.~~

~~2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.~~

~~3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.~~

~~4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.]~~ *(Deleted by amendment.)*

Sec. 5.43. ~~[NRS 122.080 is hereby amended to read as follows:~~

~~122.080 1.~~ [After] ~~*Except as otherwise provided in subsection 2, after* receipt of the marriage license previously issued to persons wishing to be married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, any judge of the district court, any justice of the peace in his township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection [3,]~~ *4, any* ~~municipal judge if authorized pursuant to subsection [4,]~~ *5, any* ~~commissioner of civil marriages within his county and within a commissioner township therein, or any deputy commissioner of civil marriages within the county of his appointment and within a commissioner township therein, to join together as husband and wife all persons not prohibited by this chapter.~~

~~2. *If a marriage license is issued by a marriage licensing agent to persons wishing to be married, it is lawful for a Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife the persons to whom the marriage license was issued only if those persons are*~~

~~*joined together as husband and wife in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.*~~

~~*3.* This section does not prohibit:~~

~~(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.~~

~~(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he is authorized to perform the marriage pursuant to subsection~~ [3.] ~~*4.*~~

[3.] ~~*4.* In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

[4.] ~~*5.* In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

[5.] ~~*6.* Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor.~~] *(Deleted by amendment.)*

Sec. 5.47. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. *If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable.* The certificate of marriage must be in substantially the following form:

STATE OF NEVADA

MARRIAGE CERTIFICATE

State of Nevada }
}ss.
County of ..... }

This is to certify that the undersigned, ..... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the ..... day of the month of ……. of the year ....., at ..... (address or church), ..... (city), Nevada, join *or rejoin, as the case may be,* in lawful wedlock ..... (name), of ..... (city), State of ....., date of birth ....., and ..... (name), of .....(city), State of ....., date of birth ....., with their mutual consent, in the presence of ..... and ..... (witnesses). *(If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the male and female person who are being rejoined in marriage.)*

.....
Signature of person performing
(Seal of County Clerk) the marriage

.....
Name under signature typewritten
or printed in black ink

.....
County Clerk

.....
Official title of person performing
the marriage

.....

.....

Couple's mailing address

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The signature of the person performing the marriage must be an original signature.

Sec. 5.5. ~~[NRS 122.210 is hereby amended to read as follows:~~

~~122.210 If any county clerk *or marriage licensing agent* shall issue or sign any marriage license in any manner other than is authorized by this chapter, he shall forfeit and pay a sum not exceeding $1,000 to and for the use of the person aggrieved.]~~ *(Deleted by amendment.)*

Sec. 5.6. ~~[NRS 122.220 is hereby amended to read as follows:~~

~~122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from~~ [the] ~~*any* county clerk *in this State or from a marriage licensing agent who was employed, at the time of issuing the license, by a commercial wedding chapel located in the county in which the*~~

~~*persons proposing the marriage will be joined together as husband and wife,* as provided by law.~~

~~2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.]~~ *(Deleted by amendment.)*

Sec. 6. ~~[1.]~~ This ~~[section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this act become]~~ *act becomes* effective on July 1, 2009.

~~[2. Section 3.5 of this act becomes effective on July 1, 2011.~~

~~3. Sections 1 to 1.8, inclusive, 3, 5.1, 5.2, 5.3, 5.4, 5.43, 5.5 and 5.6 of this act expire by limitation on June 30, 2011.]~~

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Washington and McGinness.

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

SENATOR CARE:

Amendment 818 deletes all references to the marriage-licensing agent.

SENATOR WASHINGTON:

I stand in opposition to the amendment. It deletes a major portion of Assembly Bill No. 262. The bill was brought to the Committee on Judiciary on behalf of the wedding-chapel industry. It is an attempt by the wedding-chapel industry to succeed in a downturn economy. They are fighting for their survival. This bill deals with counties with a population of fewer than 400,000. There are certain wedding chapels that are allowed to provide marriage licenses for those who wish to marry.

This bill allows the wedding chapels to act as an agent on behalf of the county to issue marriage licenses if they meet certain qualifications. The requirements are that the employees are employed by the chapel and that they go through extensive background checks. They must provide additional information that is necessary and make certain that Social Security and other identification is kept confidential and that the applicants that are going to be married are over the age of 25. It specifies the hours during which the chapel may issue marriage licenses. This is permissible. It is a pilot program that will last for two years. Then, we can look at it and see if it is working. This is not overreaching. It is an opportunity for this industry to survive.

Let us give the wedding-chapel industry an opportunity to operate to see if they can continue to flourish in a downturn economy. I ask my colleagues not to support the amendment but to support the bill in its entirety.

SENATOR MCGINNESS:

My colleague from Washoe District 2 is correct. During the hearing, we got emails from both large county clerks and from Humboldt County stating they had been doing this for 15 years and it seemed to be working fine. I support my colleague from Washoe District 2.

SENATOR CARE:

The bill, without the deletions, would go to all counties except Clark County. The difficulty is that section 1.4 would be deleted under the motion. The bill, as it was introduced, made this mandatory. When the bill came to us, the language stated it was something the clerks could do if they chose. The concern I have is that if the amendment stays in the bill and the bill passes, that even though it is permissive, there would be pressure for the county clerks to engage in this. The clerks, if they chose to get into this routine, would establish a course of training for applicants for certification of marriage-license agents. They would have to adopt regulations. They could conduct investigations. They would appoint hearing panels to hear matters related to all of this. There was a question about whether there was a mechanism for appeal if the marriage-licensing

agent took exception to what the clerk might have determined. I thought it best to remove the provisions from the bill that pertain to the marriage-licensing agent.

Amendment adopted.
Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 446.
Bill read third time.
Roll call on Assembly Bill No. 446:
YEAS—21.
NAYS—None.

Assembly Bill No. 446 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 530.
Bill read third time.
Remarks by Senators Amodei and Horsford.
Senator Amodei requested that the following remarks be entered in the Journal.

SENATOR AMODEI:
Could we have an explanation of this bill?

SENATOR HORSFORD:
Assembly Bill No. 530 is part of the recommendation and, as amended, provides for the reversion of any money remaining in the account for programs for innovation and the prevention of remediation at the end of Fiscal Year 2009. It was part of the Governor's budget and reverts the money to the General Fund.

Roll call on Assembly Bill No. 530:
YEAS—21.
NAYS—None.

Assembly Bill No. 530 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 531.
Bill read third time.
Roll call on Assembly Bill No. 531:
YEAS—21.
NAYS—None.

Assembly Bill No. 531 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Mathews moved that all necessary rules be suspended and that Assembly Bills Nos. 165, 446, 530, 531 be immediately transmitted to the Assembly.

Motion carried unanimously.

Senator Nolan moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 10:55 p.m.

## SENATE IN SESSION

At 2:38 a.m.

CALL OF THE SENATE

Senators Horsford, Wiener and Woodhouse moved a call of the Senate.

Motion carried.

At 2:40 a.m.

At 2:45 a.m.

Roll called.

Quorum present.

Senators absent: Amodei, McGinness and Washington.

Senator Horsford directed the Sergeant at Arms to close the doors.

## SENATE IN SESSION

At 2:55 a.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that further proceedings under the call of the Senate be dispensed with.

Motion carried.

REMARKS FROM THE FLOOR

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

The time is now 2:45 a.m. We recessed at 10:55 p.m. earlier this evening and have just returned from that recess. We have been trying to negotiate some matters during this time particularly on the reform of issues involving PEBS and PERS. Senator Townsend has been negotiating for our caucus. We are at a point where we are unable to reach an agreement, that is a condition of the Republicans in this Senate to supporting any kind of a tax plan. In those negotiations it has been reported to me that not only have they not reached a conclusion but issues that were previously agreed to have been reneged upon. It poses a difficult problem in doing anything further with respect to the tax plan.

We have been waiting here since the Majority Leader called for a recess. For whatever reasons, the Call of the House has been issued; it sounds like a threat. If the idea, which is inappropriate and imprudent, is to hold us hostage until we cave in on some of these issues, it is an unwise use of the rule to have a Call of the House.

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

Thank you, Mr. President. I want to acknowledge the people in the core group in Leadership who have spent the last two weeks trying to work out one of the State's most difficult issues. We have had other issues that we have had to fight for, work together and to negotiate. This is the first time in the 16 years I have been in the Legislature that the motion for a Call of the House has been invoked. The two parties have been working in good faith to try to make things happen. The fact that things have melted down does not mean we are at a complete loss. If it is thought that trapping us here will garnish favorable votes, then Leadership is mistaken. We have a mutual respect. We have always had a friendship, and we have worked with each other.

Most of us have been working on the issues since 6:00 a.m. Later this morning, it is expected that the chair and the committee members will come back to work and will be able to work coherently on a hefty agenda to try to move bills out of the House. To think that we can do that in civility and as human beings is ridiculous. There are people here who are going to have to be back here in three hours to spend another full day and night. We have not done this before under these circumstances.

Mr. Majority Leader, you have enough of our members who are here and are ready and willing to vote. We have other members who are as far away as Fallon, and if you are going to hold your members and our members here for another two hours under conditions that we just saw where a member had to use the restroom and was denied the civility of even being able to leave the room to use a facility, we are making a big mistake. We are here to do business at 3:00 a.m. Let us do the business and let your people go.

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

I would like the record to be clear. The Call of the House is used to invoke a rule that we adopted that requires all members to be present so that we can do the business that we were elected to do.

We recessed earlier with the intent to return to this Chamber to complete the agendas before us. No members were excused. No notices were given to the Leadership Office that members had to leave. We have been here since we recessed; and none of those courtesies were extended to Leadership. This is not an attempt to force people to vote in any manner on any bill. We are here for 120 days to complete the work of the people who elected us. If that has to be done at 3:00 a.m. or 3:00 p.m., that is the oath we have taken.

I ask that the Secretary allow us to continue on the third agenda and will go through the business we have at hand and we will continue to work until all of our business is done.

## UNFINISHED BUSINESS

### CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 26.

The following Assembly amendment was read:

Amendment No. 776.

"SUMMARY—Revises provisions governing chiropractic physicians. (BDR 54-349)"

"AN ACT relating to chiropractic physicians; including certain activities within the scope of unprofessional conduct; allowing the Chiropractic Physicians' Board of Nevada to impose a fine for each act which constitutes a ground for disciplinary action under chapter 634 of NRS; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill includes within the definition of "unprofessional conduct" the violation of any lawful order of or agreement with the Chiropractic Physicians' Board of Nevada and of any statute or regulation governing chiropractic physicians. (NRS 634.018)

Section 2 of this bill authorizes the imposition of a fine of up to ~~[$10,000]~~ *$5,000* for each act that constitutes a ground for disciplinary action under chapter 634 of NRS. (NRS 634.190)

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

Section 1. NRS 634.018 is hereby amended to read as follows:

634.018 "Unprofessional conduct" means:

1. Obtaining a certificate upon fraudulent credentials or gross misrepresentation.

2. Procuring, or aiding or abetting in procuring, criminal abortion.

3. Assuring that a manifestly incurable disease can be permanently cured.

4. Advertising chiropractic business in which grossly improbable statements are made, advertising in any manner that will tend to deceive, defraud or mislead the public or preparing, causing to be prepared, using or participating in the use of any form of public communication that contains professionally self-laudatory statements calculated to attract lay patients. As used in this subsection, "public communication" includes, but is not limited to, communications by means of television, radio, newspapers, books and periodicals, motion picture, handbills or other printed matter.

5. Willful disobedience of the law, or of the regulations of the State Board of Health or of the Chiropractic Physicians' Board of Nevada.

6. Conviction of any offense involving moral turpitude, or the conviction of a felony. The record of the conviction is conclusive evidence of unprofessional conduct.

7. Administering, dispensing or prescribing any controlled substance.

8. Conviction or violation of any federal or state law regulating the possession, distribution or use of any controlled substance. The record of conviction is conclusive evidence of unprofessional conduct.

9. Habitual intemperance or excessive use of alcohol or alcoholic beverages or any controlled substance.

10. Conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public.

11. Violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the regulations adopted by the Board, or any other statute or regulation pertaining to the practice of chiropractic.

12. Employing, directly or indirectly, any suspended or unlicensed practitioner in the practice of any system or mode of treating the sick or afflicted, or the aiding or abetting of any unlicensed person to practice chiropractic under this chapter.

13. Repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner.

14. Solicitation by the licensee or his designated agent of any person who, at the time of the solicitation, is vulnerable to undue influence,

including, without limitation, any person known by the licensee to have recently been involved in a motor vehicle accident, involved in a work-related accident, or injured by, or as the result of the actions of, another person. As used in this subsection:

(a) "Designated agent" means a person who renders service to a licensee on a contract basis and is not an employee of the licensee.

(b) "Solicitation" means the attempt to acquire a new patient through information obtained from a law enforcement agency, medical facility or the report of any other party, which information indicates that the potential new patient may be vulnerable to undue influence, as described in this subsection.

15. Employing, directly or indirectly, any person as a chiropractor's assistant unless the person has been issued a certificate by the Board pursuant to NRS 634.123, or has applied for such a certificate and is awaiting the determination of the Board concerning the application.

16. Aiding, abetting, commanding, counseling, encouraging, inducing or soliciting an insurer or other third-party payor to reduce or deny payment or reimbursement for the care or treatment of a patient, unless such action is supported by:

(a) The medical records of the patient; or

(b) An examination of the patient by the chiropractic physician taking such action.

*17. Violating a lawful order of the Board, a lawful agreement with the Board, or any of the provisions of this chapter or any regulation adopted pursuant thereto.*

Sec. 2. NRS 634.190 is hereby amended to read as follows:

634.190 1. The person charged is entitled to a hearing before the Board, but the failure of the person charged to attend his hearing or his failure to defend himself does not delay or void the proceedings. The Board may, for good cause shown, continue any hearing from time to time.

2. If the Board finds the person guilty as charged in the complaint, it may by order:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of chiropractic.

(d) Suspend the license of the person to practice chiropractic for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice chiropractic.

(f) Impose a fine of not more than ~~[$10,000]~~ ~~[,]~~ *$5,000 for each act which constitutes a ground for disciplinary action,* which must be deposited with the State Treasurer for credit to the State General Fund.

➥ The order of the Board may contain such other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

3. If the Board finds that a licensee has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

4. The Board shall not administer a private reprimand.

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

Senator Carlton moved that the Senate concur in the Assembly amendment to Senate Bill No. 26.

Remarks by Senator Carlton.

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

The amendment reduces the maximum fine the Chiropractic Physicians' Board may impose for each act in a disciplinary action up to $5,000.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 128.

The following Assembly amendment was read:

Amendment No. 732.

"SUMMARY—Requires certain persons to record foreclosure sales and sales of real property under a deed of trust within a certain period of time. (BDR 9-841)"

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

Legislative Counsel's Digest:

Existing law provides for a trustee to execute a power of sale on real property after a breach of an obligation or payment of debt due to the trustee. Section 1 of this bill amends existing law to: (1) require the ~~[beneficiary of the deed of trust]~~ *trustee* to ~~[cause the recordation of]~~ *record* the sale of the property with the appropriate office of the county recorder within 30 days after the date of the sale *or deliver, within 20 days after the date of the sale, the deed to the successful bidder, who must then record the deed with the appropriate office of the county recorder within 10 days after the date of delivery*; and (2) make the ~~[beneficiary]~~ *successful bidder* liable for certain damages for failure to cause such recordation. (NRS 107.080)

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

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

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

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

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

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3 month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

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

*(a) Within 30 days after the date of the sale, record the trustee's deed upon sale ~~[to be recorded]~~ in the office of the county recorder of the county in which the property is located ~~[.]~~ ; or*

*(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.*

*9. If the ~~[beneficiary]~~ successful bidder fails to ~~[cause the recordation of]~~ record the trustee's deed upon sale pursuant to ~~[this subsection,]~~ paragraph (b) of subsection 8, the ~~[beneficiary:]~~ successful bidder:*

*(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in ~~[the]~~ a sum of up to*

*$500 and for reasonable attorney's fees and the costs of bringing the action; and*

*(b) Is liable in a civil action for any actual damages caused by his failure to comply with the provisions of ~~[this]~~ subsection 8 and for reasonable attorney's fees and the costs of bringing the action.*

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) To draw under a letter of credit.

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

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

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

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

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

(n) Pursuant to NRS 40.507 or 40.508.

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

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

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

Senator Carlton moved that the Senate concur in the Assembly amendment to Senate Bill No. 128.

Remarks by Senator Carlton.

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

This amendment makes three technical changes. It adds the procedure to record the trustees' deed when the successor bid is not the trustee. It deletes references to "beneficiary" and inserts "successful bidder" as the correct term and provides for a civil fine for up to $500 instead of a flat $500.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 195.

The following Assembly amendment was read:

Amendment No. 717.

"SUMMARY—Revises provisions governing workers' compensation. (BDR 53-1077)"

"AN ACT relating to industrial insurance; revising provisions relating to *the denial or acceptance of a claim for compensation; revising provisions relating to* examinations and permanent partial disabilities; *increasing*

*certain death benefits; revising provisions relating to the imposition of administrative fines and benefit penalties for certain violations; establishing continuous care coverage as a line of insurance for which a producer may be licensed; revising provisions for the issuance of a certificate of registration as an administrator;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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

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

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

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

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

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

*Section 10 of this bill revises provisions governing the imposition of administrative fines for certain violations by an insurer, organization for managed care, health care provider, third-party administrator or employer.*

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

*Section 15 of this bill requires the Commissioner of Insurance to obtain final approval from the Department of Business and Industry before issuing a certificate of registration as an administrator. Section 1.5 of this bill requires*

*the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations setting forth the qualifications needed to obtain such final approval.*

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

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

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

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

616A.400 The Administrator shall:

1. Prescribe by regulation the time within which adjudications and awards must be made.

2. Regulate forms of notices, claims and other blank forms deemed proper and advisable.

3. Prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith.

4. Prescribe by regulation the method for reimbursing an injured employee for expenses necessarily incurred for travel more than 20 miles one way from his residence or place of employment to his destination as a result of an industrial injury.

5. Determine whether an insurer has provided adequate facilities in this State to administer claims and for the retention of a file on each claim.

6. Evaluate the services of private carriers provided to employers in:

(a) Controlling losses; and

(b) Providing information on the prevention of industrial accidents or occupational diseases.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[7.]~~ *8.* For the purposes of this section, the insurer shall mail the written determination to:

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

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

~~[8.]~~ 9. As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

~~[Section 1.]~~ *Sec. 3.* NRS 616C.110 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

3. If the ~~[edition]~~ *Fifth Edition* of the American Medical Association's Guides to the Evaluation of Permanent Impairment ~~[most recently adopted by the Division]~~ contains more than one method of determining the rating of an impairment, the Administrator shall designate by regulation the method from

that edition which must be used to rate an impairment pursuant to NRS 616C.490.

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

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

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

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

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

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

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

616C.330 1. The hearing officer shall:

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

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

(c) Conduct hearings expeditiously and informally.

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

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may order an independent medical examination, which must not involve treatment, and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be

selected in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

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

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

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

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

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

(a) The hearing; or

(b) He receives a copy of the report from the medical examination he requested.

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

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

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

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

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

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

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

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

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

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

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

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

~~[6.]~~ *7.* Any party to the appeal or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after

the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

~~[7.]~~ *8.* The appeals officer shall render his decision:

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

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

~~[8.]~~ *9.* The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to give effect to his decision.

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

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

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

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

(b) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

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

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

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

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

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

5. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. ~~[No]~~ *Except in the case of claims accepted pursuant to NRS 616C.180, no* factors other than the degree of physical impairment of the whole man may be considered in calculating the entitlement to compensation for a permanent partial disability.

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

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

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

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

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

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

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

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

➥ Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.

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

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

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

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

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

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

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

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

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

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

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

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

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, his proportionate share of 50 percent of the death benefit and, except as otherwise provided in subsection 12, if the child has a guardian, the compensation he is entitled to receive may be paid to the guardian.

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

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

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

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

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

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

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

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

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

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

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

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

8. The aggregate compensation payable pursuant to subsection 7 must not exceed 66 2/3 percent of the average monthly wage.

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

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

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

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

10. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer

may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

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

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

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

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

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

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

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

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

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

(b) Without justification, persuaded a claimant to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Issue a notice of correction for:

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

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

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

(b) Impose an administrative fine for:

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

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

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

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

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

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

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

4. To determine the amount of the benefit penalty, the Administrator shall consider the degree of physical harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) , ~~[or]~~ (h) *or (i)* of subsection 1, the amount of compensation found to be due the claimant and the number of fines and benefit penalties, other than a benefit penalty described in paragraph (b) of subsection 3, previously imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer pursuant to this section. ~~[If this is the third violation within 5 years for which a benefit penalty, other than a benefit penalty described in paragraph (b) of subsection 3, has been imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer, the]~~ *The* Administrator shall also consider the degree of economic harm suffered by the injured employee

or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) , ~~[or]~~ (h) *or (i)* of subsection 1. Except as otherwise provided in this section, the benefit penalty is for the benefit of the claimant and must be paid directly to him within 10 days after the date of the Administrator's determination. If the claimant is the injured employee and he dies before the benefit penalty is paid to him, the benefit penalty must be paid to his estate. Proof of the payment of the benefit penalty must be submitted to the Administrator within 10 days after the date of his determination unless an appeal is filed pursuant to NRS 616D.140. Any compensation to which the claimant may otherwise be entitled pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS must not be reduced by the amount of any benefit penalty received pursuant to this subsection. *To determine the amount of the benefit penalty in cases of multiple violations occurring within a certain period of time, the Administrator shall adopt regulations which take into consideration:*

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

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

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

6. If:

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

(b) The Fraud Control Unit for Industrial Insurance of the Office of the Attorney General established pursuant to NRS 228.420 notifies the Administrator that the Unit will not prosecute the person for that violation,

➥ the Administrator shall impose an administrative fine of not more than $15,000.

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

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

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

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

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

employer, association of self-insured public or private employers or third-party administrator violated any provision of subsection 1.

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

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

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

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

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

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

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

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

681A.020 1. "Casualty insurance" includes:

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

(b) Liability insurance. Insurance against legal liability for the death, injury or disability of any human being, or for damage to property, including liability resulting from negligence in rendering expert, fiduciary or professional services *,* ~~[;]~~ and provisions of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to

dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

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

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

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

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

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

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

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

(j) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire, and to make inspection of and issue certificates of inspection upon, elevators.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The Commissioner may refuse to issue a certificate of registration as an administrator to an applicant if the Commissioner determines that the applicant or any person who has completed an affidavit pursuant to subsection 6 of NRS 683A.08522:

(a) Is not competent to act as an administrator;

(b) Is not trustworthy or financially responsible;

(c) Does not have a good personal or business reputation;

(d) Has had a license or certificate to transact insurance denied for cause, suspended or revoked in this state or any other state;

(e) Has failed to comply with any provision of this chapter; or

(f) Is financially unsound.

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

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

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

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

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

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

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

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

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

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

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

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

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

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

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

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

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

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address

appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

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

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

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

Senator Carlton moved that the Senate concur in the Assembly amendment to Senate Bill No. 195.

Remarks by Senator Carlton.

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

This amendment addresses the discharge of an employee for reasons other than gross misconduct. It addresses the option of a hearings' officer in a workers' compensation case, may consider the opinion of and examining physician or chiropractor when determining what compensation is payable. It addresses a mental injury caused by extreme stress in time of danger may be considered in calculating permanent-partial disability compensation. It also addresses the death provision that includes burial expenses up to $10,000, plus the cost of transporting the remains of the deceased worker. It was originally $5,000. It also addresses the employer-insurer healthcare provider or third-party administrator as liable for administrative fines for engaging in a pattern of untimely payments to injured workers.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 228.

The following Assembly amendment was read:

Amendment No. 781.

"SUMMARY—Revises provisions governing the ownership or operation of a dental office or clinic. (BDR 54-651)"

"AN ACT relating to dentistry; authorizing the ownership or operation of a dental office or clinic by certain nonprofit corporations and other organizations under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) Section 4 of this bill revises that list to provide that certain nonprofit corporations and health centers may own and operate dental offices or clinics under certain circumstances.

Section 2 of this bill provides that certain nonprofit corporations and health centers owning and operating dental offices or clinics must employ a licensed dentist as dental director and maintain certain records.

Section 3 of this bill provides that the ownership or operation of a dental office or clinic under certain circumstances does not constitute a violation of law or a cause for disciplinary action under chapter 631 of NRS.

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

Section 1. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *An entity that owns or operates a dental office or clinic as described in paragraph (f) of subsection 2 of NRS 631.215 must:*

*1. Designate an actively licensed dentist as the dental director of the dental office or clinic. The dental director shall have responsibility for the clinical practice of dentistry at the dental office or clinic, including, without limitation:*

*(a) Diagnosing or treating any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof.*

*(b) Administering or prescribing such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases.*

*(c) Determining:*

*(1) Whether a particular treatment is necessary or advisable; or*

*(2) Which particular treatment is necessary or advisable.*

*(d) The overall quality of patient care that is rendered or performed in the clinical practice of dentistry.*

*(e) Supervising dental hygienists, dental assistants and other personnel involved in direct patient care and authorizing procedures performed by the dental hygienists, dental assistants and other personnel in accordance with the standards of supervision established by law or regulations adopted pursuant thereto.*

*(f) Providing any other specific services that are within the scope of clinical dental practice.*

*(g) Retaining patient dental records as required by law and regulations adopted by the Board.*

*(h) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.*

*2. Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care. The records must be available to the Board upon written request.*

Sec. 3. *1. It is not a violation of NRS 631.395 or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for an entity to own or operate a dental office or clinic as described in and operating in compliance with the provisions of paragraph (f) of subsection 2 of NRS 631.215 and section 2 of this act.*

*2. It is not a violation of NRS ~~[631.346]~~ 631.3465 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with an entity described in and operating in compliance with the provisions of paragraph (f) of subsection 2 of NRS 631.215 and section 2 of this act.*

Sec. 4. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

*(f) Prohibits the following entities from owning or operating a dental office or clinic if the entity complies with the provisions of section 2 of this act:*

*(1) A nonprofit corporation organized pursuant to the provisions of chapter 82 of NRS to provide dental services to rural areas and medically underserved populations of migrant or homeless persons or persons in rural communities pursuant to the provisions of 42 U.S.C. § 254b or 254c.*

*(2) A federally-qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B) operating in compliance with other applicable state and federal law.*

*(3) A nonprofit charitable corporation as described in section 501(c)(3) of the Internal Revenue Code and determined by the Board to be providing dental services by volunteer licensed dentists at no charge or at a substantially reduced charge to populations with limited access to dental care.*

Senator Carlton moved that the Senate concur in the Assembly amendment to Senate Bill No. 228.

Remarks by Senator Carlton.

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

This amendment is a technical correction. We had the wrong NRS citation. It was a four-digit number instead of a three-digit number.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 231.

The following Assembly amendment was read:

Amendment No. 676.

"SUMMARY—Makes various changes concerning food establishments connected with a child care facility. (BDR 40-975)"

"AN ACT relating to food establishments; exempting a licensed child care facility from certain regulations applicable to a food establishment, regardless of whether the child care facility includes a kindergarten; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law exempts licensed child care facilities from certain regulations adopted by the State Board of Health or a local board of health governing standards for the construction of a food establishment and the equipment

required in a food establishment. (NRS 446.941) This bill provides that a licensed child care facility is exempt from such regulations, regardless of whether the child care facility includes a kindergarten.

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

Section 1. NRS 446.941 is hereby amended to read as follows:

446.941 1. Any regulation adopted by the State Board of Health or a local board of health pursuant to NRS 446.940 that establishes a standard for the construction of a food establishment or the equipment required to be present in a food establishment ~~[shall]~~ *does* not apply to any child care facility that limits its menu to:

(a) Food that does not constitute a potential or actual hazard to the public health; and

(b) Potentially hazardous food that has been:

(1) Commercially prepared and precooked; or

(2) Pasteurized ~~[.]~~ ,

➥ *regardless of whether the child care facility includes a kindergarten.*

2. As used in this section ~~[, "child]~~ *:*

*(a) "Child* care facility" includes:

~~[(a)]~~ *(1)* A child care facility licensed pursuant to chapter 432A of NRS; or

~~[(b)]~~ *(2)* A child care facility licensed by a city or county.

*(b) "Kindergarten" means a program of education for children who are 5 and 6 years of age which is:*

*(1) Licensed to operate as such pursuant to chapter 394 of NRS or which is exempt from licensure pursuant to NRS 394.211; and*

*(2) Located on the premises of a child care facility.*

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

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 231.

Remarks by Senator Wiener.

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

The Assembly added a definition for Kindergarten to the bill.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 278.

The following Assembly amendment was read:

Amendment No. 677.

"SUMMARY—Requiring the Legislative Committee on Health Care to study certain issues concerning the provision of ~~[public]~~ health ~~[.]~~ *care.* (BDR S-1061)"

"AN ACT relating to ~~[health districts;]~~ *health care;* requiring the Legislative Committee on Health Care to study the establishment of a health district in a county whose population is less than 100,000; requiring the

~~[Legislative]~~ Committee ~~[on Health Care]~~ to study issues concerning the consolidation and integration of ~~[public]~~ health and social services in ~~[a county whose population is 400,000 or more;]~~ *certain larger counties; requiring the Committee to study the establishment of regional centers for certain substance abuse treatment;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the Legislative Committee on Health Care to study: (1) the feasibility of establishing a health district in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties); ~~[and]~~ (2) the feasibility of consolidating or integrating certain ~~[public]~~ health and social services provided in a county whose population is 400,000 or more (currently Clark County) ~~[.]~~ *; and (3) the feasibility of establishing regional centers for the provision of services for the prevention and treatment of alcohol and substance abuse.*

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. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. 1. The Legislative Committee on Health Care shall, during the 2009-2011 interim, study:

(a) The feasibility of establishing a health district in counties whose populations are less than 100,000, including, without limitation:

(1) The establishment of a health district by a single county or by two or more adjacent counties;

(2) The impact on each county whose county board of health is abolished upon establishing such a health district;

(3) The composition and authority of such a health district; and

(4) The manner in which such a health district may be financed; ~~[and]~~

(b) The feasibility of consolidating or integrating certain ~~[public]~~ health and social services in counties whose populations are 400,000 or more, including, without limitation, the consolidation or integration of:

(1) Adoption services;

(2) ~~[Alcohol and drug abuse prevention services;~~

~~(3)]~~ Child abuse prevention services;

~~[(4)]~~ *(3)* Child welfare services;

~~[(5)]~~ *(4)* Delinquency prevention services;

~~[(6)]~~ *(5)* Determination of eligibility for public assistance;

~~[(7)]~~ *(6)* Employment and training services;

~~[(8)]~~ *(7)* Foster care services;

~~[(9)]~~ *(8)* Health services;

~~[(10)]~~ *(9)* Services and programs for medically indigent persons;

~~[(11)]~~ *(10)* Mental health services;

~~[(12)]~~ *(11)* Services provided to senior citizens; and

~~[(13)]~~ *(12)* Services provided to veterans ~~[.]~~ *; and*

*(c) The feasibility of establishing regional centers for the provision of services for the prevention and treatment of alcohol and substance abuse.*

2. The Legislative Committee on Health Care shall submit a report of the results of the study conducted pursuant to subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.

Sec. 32. This act becomes effective on July 1, 2009.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 278.

Remarks by Senator Wiener.

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

This expands the interim study to include the feasibility of looking at regional centers to address alcohol and substance-abuse treatment and prevention.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 317.

The following Assembly amendment was read:

Amendment No. 605.

"SUMMARY—Requires instruction on financial literacy in the public high schools. (BDR 34-1109)"

"AN ACT relating to education; requiring ~~[the Department of Education to ensure that]~~ instruction ~~[in]~~ *on* financial literacy ~~[is provided to]~~ *for* pupils enrolled in public high schools and certain charter schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the academic subjects, standards and courses of study for the public schools in this State. (Chapter 389 of NRS) This bill requires ~~[the Department of Education to ensure that]~~ instruction ~~[in]~~ *on* financial literacy ~~[is provided to]~~ *for* pupils enrolled in the public high schools in each school district and in each charter school that operates as a high school.

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The ~~[Department shall ensure that instruction in financial literacy is provided to pupils enrolled in the public high schools within each school district and in]~~ board of trustees of each school district and the governing body of each charter school that ~~[includes pupils enrolled at the high school grade levels.]~~ operates as a high school shall ensure that instruction on financial literacy is provided to pupils enrolled in each public high school within the school district or in the charter school, as applicable. The instruction must include, without limitation:*

*(a) The skills necessary to develop financial responsibility, including, without limitation:*

*(1) Making reasonable financial decisions by analyzing the alternatives and consequences of those financial decisions;*

*(2) Locating and evaluating financial information from various sources;*

*(3) Developing communication strategies to discuss financial issues;*

*(4) Controlling personal information; and*

*(5) Reviewing and summarizing federal and state consumer protection laws.*

*(b) The skills necessary to manage finances, including, without limitation:*

*(1) Developing a plan for spending and saving;*

*(2) Developing a system for keeping and using financial records; and*

*(3) Developing a personal financial plan.*

*(c) The skills necessary to understand the use of credit and the incurrence of debt, including, without limitation:*

*(1) Identifying the costs and benefits of various types of credit;*

*(2) Explaining the purpose of a credit report, including, without limitation, the manner in which a credit report is used by lenders;*

*(3) Describing the rights of a borrower regarding his credit report;*

*(4) Identifying methods to avoid and resolve debt problems; and*

*(5) Reviewing and summarizing federal and state consumer credit protection laws.*

*(d) The skills necessary to understand the basic principles of saving and investing, including, without limitation:*

*(1) Understanding how saving and investing contribute to financial well-being;*

*(2) Understanding the methods of investing and alternatives to investing;*

*(3) Understanding how to buy and sell investments; and*

*(4) Understanding how the regulation of financial institutions protects investors.*

*2. The instruction required by subsection 1 may be included within a course or program of instruction that pupils enrolled in high school are otherwise required to complete for graduation.*

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

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 317.

Remarks by Senator Wiener.

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

This changes the responsibility from the Department of Education to local school boards of trustees and charter school governing boards to insure that students will be instructed in financial literacy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 378.

The following Assembly amendment was read:

Amendment No. 618.

"SUMMARY—Establishes provisions relating to certain early childhood education programs. (BDR 34-1134)"

"AN ACT relating to education; requiring the Department of Education to develop a plan for early childhood education; ~~[requiring]~~ *authorizing* the Department to apply for money for certain prekindergarten programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires the Department of Education to adopt a plan for early childhood education for programs of prekindergarten education which are provided by a school district or charter school, or which are supported by public money.

Section 3 of this bill ~~[further requires]~~ *authorizes* the Department to apply for any available grants of money from the American Recovery and

Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to certain programs of prekindergarten education.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Department shall establish a plan for early childhood education in this State which sets forth the standards and guidelines for programs of prekindergarten education. The plan must be designed to promote the development and school readiness of children in prekindergarten education in this State and must include, without limitation, guidelines for:*

*(a) The physical well-being and motor development of children;*

*(b) The successful adjustment of children to a school environment;*

*(c) Suggested approaches to learning and methods for teaching children;*

*(d) The development of speech and language of children; and*

*(e) Providing general knowledge to children.*

*2. Each program of prekindergarten education in this State which is provided by a school district or charter school, or which operates, in whole or in part, using money from a public source must comply with the provisions of the plan developed by the Department pursuant to subsection 1.*

*3. The Department may:*

*(a) Adopt, implement and provide training to educational personnel and other personnel who provide prekindergarten education to children in this State.*

*(b) Provide assistance to programs of prekindergarten education in this State to ensure the school readiness of children who attend prekindergarten.*

*4. The Department shall, within the limits of money available for that purpose, grant money to programs of prekindergarten education which comply with the provisions of this section.*

*5. The Superintendent of Public Instruction shall prepare an annual report concerning the plan developed pursuant to subsection 1 and the programs of prekindergarten education conducted in this State, including, without limitation:*

*(a) Demographic information for children enrolled in such programs; and*

*(b) An analysis of the school readiness of children who complete a program of prekindergarten education.*

*6. The Superintendent of Public Instruction shall submit the report prepared pursuant to subsection 5 on or before February 1 of each:*

*(a) Odd-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.*

*(b) Even-numbered year to the Legislative Committee on Education.*

*7. Nothing in this section requires:*

*(a) A school district, charter school or the Department to provide a program of prekindergarten education; or*

*(b) A parent or legal guardian of a child to enroll the child in a program of prekindergarten education.*

*8. As used in this section, "school readiness" means the ability of a child to enter kindergarten with an appropriate level of skills, knowledge and maturity to successfully participate in kindergarten.*

Sec. 2. NRS 392.375 is hereby amended to read as follows:

392.375 1. At least twice each school year, a school district shall require all the pupils in the school district who ride a school bus to practice the evacuation of a school bus for a purpose other than a crisis governed by NRS 392.600 to 392.656, inclusive, and to receive instruction in the responsibility of a passenger of a school bus to use the emergency exit doors on the bus during such an evacuation.

2. Each school district shall adopt a safety program which does not concern a crisis governed by NRS 392.600 to 392.656, inclusive, and which includes, without limitation:

(a) The procedure for pupils to safely enter and exit a school bus, including entering and exiting with a driver of a school bus as an escort;

(b) Proper behavior and conduct of pupils while in areas around a school bus where a high risk of danger to pupils exists, including the area that is used to load and unload school buses;

(c) Behavior and conduct of pupils while on a school bus that will enhance the safety of the pupils;

(d) Evacuation of pupils from a school bus; and

(e) The location of emergency equipment on a school bus.

➥ At least annually, a school district shall require all pupils who are enrolled in preschool, *prekindergarten,* kindergarten and in grades 1 to 4, inclusive, in the school district who ride a school bus to participate in the safety program created pursuant to this section.

3. If a parent or legal guardian enrolls his child in preschool, *prekindergarten,* kindergarten or grades 1 to 6, inclusive, and the child will be riding a school bus for the first time, the school shall provide the parent or legal guardian, upon enrollment, with written information concerning the safety of pupils on a school bus. The information must include, without limitation:

(a) A description of each location that is designated to load and unload a school bus which is in geographical proximity to the pupil's residence;

(b) Rules of conduct for pupils on a school bus and at an area that is designated for pupils to enter and exit a school bus;

(c) Instructions for the operation of a motor vehicle:

(1) At school crossing zones and in areas that are designated to load and unload a school bus; and

(2) When a driver of a school bus operates a system of flashing red lights;

(d) A description of the area around a school bus that poses a high risk of danger to pupils and other pedestrians; and

(e) Behavior and conduct for pupils who walk to and from an area that is designated for pupils to enter and exit a school bus that will enhance the safety of the pupils.

4. The board of trustees of each school district shall adopt regulations regarding practices conducted pursuant to subsection 1 and participation in safety programs required by subsection 2, including the requirement of such practices and participation in such programs at the beginning of any field trip by school bus.

Sec. 3. 1. The Department ~~[shall]~~ *of Education may* apply for any available grants of money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act.

2. Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive School Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act, the money must be deposited in the State Distributive School Account and accounted for separately.

Sec. 4. 1. This section and section 3 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2009, for purposes of developing a plan for early childhood education and on July 1, 2010, for all other purposes.

3. Section 2 of this act becomes effective on July 1, 2010.

Senator Mathews moved that the Senate concur in the Assembly amendment to Senate Bill No. 378.

Motion carried by a constitutional majority.

Bill ordered enrolled.

## APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Care, Copening and Wiener as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 45.

## REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 254, 337, 548, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN J. LEE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 20, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 53, 63, 234, 408, 409, 415; Senate Joint Resolutions Nos. 2, 3, 4, 9; Senate Joint Resolution No. 2 of the 74th Session.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 563.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 430.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 60, Amendment No. 704; Senate Bill No. 82, Amendment No. 733; Senate Bill No. 92, Amendment No. 735; Senate Bill No. 124, Amendment No. 654; Senate Bill No. 160, Amendment No. 675; Senate Bill No. 248, Amendment No. 736; Senate Bill No. 265, Amendment No. 782; Senate Bill No. 267, Amendment No. 656; Senate Bill No. 277, Amendment No. 730; Senate Bill No. 305, Amendment No. 804; Senate Bill No. 313, Amendment No. 729; Senate Bill No. 351, Amendment No. 750; Senate Bill No. 389, Amendment No. 760, and respectfully requests your honorable body to concur in said amendments.

DIANE M. KEETCH
*Assistant Chief Clerk of the Assembly*

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 430.

Senator Care moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 563.

Senator Care moved that the bill be referred to the Committee on Finance.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 426.

Bill read third time.

Roll call on Senate Bill No. 426:

YEAS—10.

NAYS—Amodei, Carlton, Cegavske, Hardy, Horsford, Nolan, Rhoads, Townsend, Washington—9.

NOT VOTING—Raggio.

ABSENT—McGinness.

Senate Bill No. 426 having failed to receive a two-thirds majority, Mr. President declared it lost.

Assembly Bill No. 146.

Bill read third time.

Roll call on Assembly Bill No. 146:

YEAS—11.

NAYS—Amodei, Cegavske, Hardy, Horsford, Nolan, Raggio, Rhoads, Townsend, Washington—9.

ABSENT—McGinness.

Assembly Bill No. 146 having failed to receive a two-thirds majority, Mr. President declared it lost.

Assembly Bill No. 458.

Bill read third time.

Roll call on Assembly Bill No. 458:

YEAS—12.

NAYS—Amodei, Cegavske, Hardy, Nolan, Raggio, Rhoads, Townsend, Washington—8.

ABSENT—McGinness.

Assembly Bill No. 458 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

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

We have just voted on Assembly Bill No. 458, which is the Distributive School Account. I noticed the votes on that indicate that there is a number of people who do not support public education as required by the Constitution. Further, Assembly Bill No. 146 is part of the negotiated agreement to balance the budget. It was a bill that was agreed upon by all parties in the negotiations. It indicates the critical point we are at in this Session. If we do not pass a budget and have a plan to fund it, then, we will end up with the Governor's budget, which will result in 36-percent cuts to higher education. It will mean elimination of children being enrolled in Nevada Check-up, based on the cap that was proposed by the Governor. It means there will be at least a 6-percent pay cut for teachers and all state employees. When you add the other benefits and longevity, the cut increases to 13 percent. While people may be tired and emotions may be high, the consequences are great if we do not complete the people's business in a timely manner.

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

In response, this is a two-way street. The Republican minority indicated early that we were prepared to work together, to structure a budget, to structure a tax plan, and we had specific conditions that were necessary for our support. One of them clearly was and has been, since the first day of Session, that we had to agree on meaningful reform of PERS and PEBS and related issues, and they were essential to have our support on the budget or on any agreed upon tax plan.

We have been working assiduously to do that. The negotiations to finalize any reform have been ongoing, as late as today, during these late hours. There is still no agreement. However, you characterize it; the hold up seems to be on the other side of the negotiations other than the side we represent. That agreement is still there. The reason the "no" votes are appearing is that the tactic that the distinguished, young Majority Leader has used tonight will work to a disadvantage here. I thought we were working together.

As far as notices are concerned, I talked with him earlier, and told him our people were tired, that we have not reached an agreement, but I think they can but not to hold us here tonight. We are 12 days away from the end of the Session. This is not the end of the Session tonight. I told him to let the people get an agreement that is meaningful and responsible and that meets the conditions. We are prepared to keep our commitment. We know what the outcome of some of these votes is, but it is not going to be because of Republicans in the Senate not supporting these measures. The reason for failure will be the tactic that was used tonight to have a Call of the House. With all that is going on, it was simply a tactic to hold the Senators in the Republican Party hostage until we came to some agreement. That is not helpful. It will have a deleterious effect on the way we conduct the business of this Senate in the last 12 days of this Session.

We are mindful of deadlines, but we want to be treated with respect, which is a little lacking at this time. Whatever side you agree with, I respectfully suggest the big issue is reform of PEBS and PERS so that we can do something meaningful in this Session to deal with these unfunded liabilities that are looming and growing greater as we go along.

The taxpayers of this State are the ones who have to pay the cost. In the end, unless we do something this Session, it is not going to be addressed. It is an important element, and has been a condition precedent to the support we want to give to funding a budget with essential services and one which can be funded with necessary tax increases that are reasonable and within limits. We have kept our part of the bargain and to be put into this kind of a situation is hurtful to this process and is not constructive. Let us finish this fourth agenda, finish the work, then, return later this morning after people have had some rest; then, we can deal with the tax plan.

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

I am glad we are having this discussion on the floor because it is important that these issues be clearly communicated and the distinguished Minority Leader who has served with distinction for 37 years is correct.

We have been negotiating in good faith for four months. The issues we have overcome in those four months have been significant. We are faced with a 44-percent decline in state revenue since two years ago. We have been able to agree in both Houses and in both parties to a budget that did not follow the Governor's draconian cuts to education, health and human services, and public safety. That is what the public is expecting.

The Minority Leader is correct. There are certain meaningful reforms that have been part of that deliberation. I am proud that members of both parties have drafted and introduced legislation that deals with the specific subjects we are debating about at 3:30 a.m. As to the reason we are not able to move forward on the tax package, the reforms to PERS are a major shift from the current system. For new employees starting July 1, 2009, the retirement benefits for those new employees will be dramatically different from our current and existing employees. The benefits will be different in order to address some of the prefunded liability issues, which have been identified. My distinguished colleague from District 5 has been working for months with stakeholders, public employees, the private sector, as well as colleagues on the other side and in this Chamber to draft a bill. The bill is scheduled to be heard in Senate Finance at 8:00 a.m. The bill has been introduced and was provided to the members on the other side three weeks ago. To say that today is the day that these issues have become the dividing point is not a fair representation of the hard work that has been done on both sides of the issue.

When you add to that the passage of Senate Bill No. 415, which is a comprehensive reform to PEBS, the health benefit program for State employees, $58 million worth of reforms, just in the bill passed, not to mention the additional reforms that are on the table in the negotiation, there has been tremendous willingness and a recognition that meaningful reforms needed to take place this Session.

Our government is going to have to change the way that it operates in these difficult times. There was always a recognition that change needed to happen. However, there was never a recognition that it would be linked to the funding for K-12 education and higher education as it is now. What we are not in agreement about is that we do not have 12 days. We have 36 hours to deliver a budget and a revenue plan to the Governor that meets the budget that we have mutually agreed on. If we fail to provide the revenue plan to fund that budget, we will not meet our obligation in this Legislature.

This is not a tactic to be up at 3:30 a.m. I respect every member's time, our staff's time, those who are here and those who are not on the floor but who are working. I respect the time of the family members who have to sacrifice for you to be here. This is not a tactic. The motion for the Call of the House was to have a record of who was here and to direct the Sergeant at Arms based on the rules that we passed, to have those members who were not present to be brought to the Chamber so that we could do the business we have been doing for the past 30 minutes. It is not a tactic.

But, what is a tactic is to throw up at the 11th hour conditions to a reform package that stands in the way of funding K-12 and higher education and to renege on the meaningful reforms that have been proposed in the PERS bill and in the PEBS reform bill that are waiting for hearing and for approval.

I ask this body not to allow our fatigue to prevent us from doing the business and honoring the oath that we swore to uphold as members of this body. I respect my colleague, the Minority Leader, and his position, but with all due respect, we do not have the time. I conclude by saying

we will finish the fourth agenda, but to the extent that we can finish whatever unresolved issues there are tonight and this morning. It is imperative that we do so, so that we can protect public and higher education in the State of Nevada. To do otherwise would be to turn the State to the failed budget that was proposed by the Governor which decimates education that all of you have worked to build up. We cannot allow that to happen.

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

I feel an obligation to make comments. I understand that on the advice of Counsel I have disqualified myself as the Senate negotiator on these matters which I think is unfortunate, but I made a decision not to drag myself through the trials and challenges I have gone through during the past year. However, it is unfair to represent our position the way it has been represented.

I deeply appreciate the reforms that have been suggested and brought forth by the other Party. I acknowledge that those reforms, to some extent, were based on comments, suggestions and negotiations with all interested parties. To suggest that we have reneged on an agreement because we have accepted the generous proposals that have been offered by the other side, but to which we have not had an opportunity to add, is unfair. I appreciate what has been offered. It is a move in the right direction, but we have something to say about it as well. We have an opinion on this.

We represent many constituencies. The Majority Leader has spoken eloquently about one of those constituencies. It is a constituency we respect, and we want to take care of. There are people in this State who need services. We have agreed to a budget that, to the best of our ability, will help them.

But, we have another constituency, and that is the constituency that pays for those services. We cannot ignore them, and we are being asked to do so. For over a year, I have spoken about my willingness to support a budget that makes sense, which moves away from the cuts that the Governor made, which moves towards keeping our State whole. I spoke earlier about not participating in dismantling our higher education system. I have followed through on that commitment. I was lead to believe that we would have meaningful discussions about reforms. That is a discussion I am allowed to partake in, to have say in, and to a large degree, that has not occurred. We have been told that we have to accept what has been offered in the bill that is going to be heard tomorrow and to accept the PEBS bill that has already been passed. That is what we have to accept.

With regard to the issue of us not negotiating in good faith, that is unfair. We have done so, often. While I was still involved in the negotiations, I saw that you were not giving us anything. This is about benefits that we believe are too generous. We cannot afford the benefits. We are going to bankrupt these systems. While I appreciate the things brought forward, though helpful, they do not take meaningful steps towards reducing the unfunded liability in both of these programs. We came forward with reforms in four specific areas. We have had meaningful discussions and made progress in three of those areas. There have been no discussions and no willingness to discuss the fourth. To suggest that we are intransigent on this and that we have not been willing to come to the table is unfair. We were having meaningful discussions on this and were moving forward, until something we agreed to and we had not discussed four days ago, relative to police and fire years of service, was reneged on. It was pulled back from the negotiating table. That is what drove us away at 2:30 a.m.

The characterization that we backed off on a commitment to fund this is inaccurate. We have always said that we need to do these meaningful reforms. To suggest that has not always been part of our agreement and our willingness to vote for this tax package is inaccurate. We did not make the suggestion that these are not tied together. The suggestion that these are not tied together has been applied to us. I have never said that I will vote for a tax package independent of this. It is a package. I respectfully submit to the other side that they ought not to put the conditions on what my vote will be and what will determine my vote. I am prepared to vote for a meaningful budget that undoes the damage that the Governor's budget does when we have reforms that help protect the constituency in this State that helps to fund this budget. We cannot ignore that.

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

To my colleague from Clark District No. 12, I appreciate all of the work that he did over the past several weeks during which we talked about these reforms. I would like to outline what they are. It is important for the body to hear what is on the table, because they are significant.

The first major change to PERS reform was to the retirement multiplier. It changed from its current rate of 2.67 to 2.5 for all public employees hired after January 1, 2010. That is a major shift. It will address the solvency issues raised. It creates a greater burden on our public employees and the amount of additional work they will have to put in to earn retirement.

The second change is an anti-spiking provision to limit the amount of compensation increase per year to 10 percent for the highest 5 years of employment that is used to calculate PERS retirement. The 10-percent cap would exclude compensation given for promotion or assignment related compensation. This is the local government reform that the private sector has complained about. It needed to be addressed. During the highest 5 years of employment, that individual cannot earn more than 10 percent towards their retirement.

The next provision eliminates the ability for police and firefighters to retire after 25 years at any age, effective for anyone hired after January 1, 2010. This is another major shift in policy based on the life-and-safety policy determinations that were made. These are our first responders. Many of them cannot work for a long period due to the physical nature of the job they are doing.

The next provision of the reform bill we proposed statutorily defines callback time that is eligible for PERS contribution to be mandatory rather than voluntary and restricted to emergencies, which will be defined in statute rather than left to the discretion of the supervisor. This is a major reform we heard from the private-sector constituency that needed to be addressed. It is included in the bill.

Another provision enacts a penalty for employers who misreport PERS eligibility for their employees. This is an accountability measure to put the burden on the employer to insure that workers are not erroneously compensated. There have been circumstances where retirees saw their benefits reduced after an audit of their former employer, severely penalizing the retiree but with no consequences to the employer.

Another provision requires the PERS website to post certification documents currently required by law that confirm that collectively-bargained employer-paid PERS was negotiated in lieu of salary. PERS currently has these certifications, but it was asked of us to put them in a way that is more easily accessible to the public and to indicate that public employees who opt for employer-paid retirement benefits see a commensurate reduction in their compensation. The provision also increases the early-retirement deduction from 4 percent to 6 percent. It implements a differed-savings option plan modeled after Assembly Bill No. 198 and the retainment of an actuarially-determined contribution rate of 2 percent or less. That is the PERS reform bill.

The PEBS reform bill moves vesting to 15 years. It must include provisions for disability, and individuals must immediately enroll. It requires HMO premium increases to a maximum of 5 percent for 2010. It eliminates neurotherapy and physical therapy benefits for ADD and ADHD. It removes the health assessment questionnaire and the incentives for participating in it, which is a 50-percent reduction in deductible and enhanced dental benefits. It institutes a single deductible for the PPO plan. People will pay $750 for individuals and $1450 for a family as opposed to the current deductible rates at $500 for individuals and $1,000 for families. It indexes the annual out-of-pocket maximum at 50 percent of medical inflation. It indexes the annual deductible at 100 percent of medical inflation. It reduces by approximately 5 percent the amount of the premium covered by the subsidy in each coverage tier. It eliminates the subsidy for retired employees who retire after June 30, 2010, with less than 15 years of experience. It allocates the Medicare Part D subsidy revenue received between PEBS and Medicare eligible retirees.

These reforms are very painful to our public employees. They were resisted by those associations that represent them, but recognizing that we needed to have meaningful reform in these areas, it is part of what was proposed in the bill.

There are several things we have agreed to in respect to NRS 288 reforms. We have agreed that for arbitrations either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders unless the

parties have mutually agreed to a panel of neutral arbitrators to hear disputes. It requires a minimum of six negotiating meetings for any size bargaining unit and for all classifications of public employees before impasse may be declared. We also agreed that an arbitrator shall use normal criteria, which may include the consideration of compensation of public employees when employed by like-sized local governments or comparative jurisdictions. This normal criteria would also be used for interest disputes regarding the terms and provisions to be included in agreement in assessing the reasonableness of the position of each party as to the issue in dispute.

Within 45 days after the receipt of the decision of the arbitrator, as provided for in NRS 288, the governing body of the local government employer must hold a public meeting pursuant to the provisions of NRS 241. This hearing of the governing body would include discussions of the issues submitted and the statement provided for in NRS 288. It requires the consideration of compensation of public employees when employed by like-sized local governments of comparative jurisdictions and during an arbitrator's analysis availability of funding will be considered for the current year being negotiated if the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated. These are the meaningful reforms that have discussed, that we have tried to reach agreement on. The PERS bill has been introduced and is scheduled for hearing. The PEBS bill has moved out of Finance.

I understand the need to represent all of the constituencies, our public employees and the private sector, but the reality is we are not representing the most important constituency, the children who need an education that is funded by the budget that we are now holding hostage.

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

Thank you, Mr. President. I have been briefed where the negotiations are now. I hope I am not in some way, Mr. President, minimizing the reforms the Majority Leader and others have offered because they are significant. They make a difference. They are moving in that direction. They have taken the time to listen to the constituency to which I referred in putting those together. Everything the Majority Leader just articulated is accurate. It represents the discussions and is helpful. I define them as meaningful and important. I understand where we are at 3:45 a.m. and where the differences lie. We will let the public decided.

It comes down to three points of disagreement. When we began the debate on this, we recognized that in order to make meaningful reform you had to do something with current employees and current retirees. With the cuts we have made in that area, they have taken a pounding this Session. We acknowledge that. Nothing that has been proposed by the Senate Republicans will impact current employees or current retirees. Everyone that will be impacted by all of the things discussed by the Majority Leader are for new hires. Most of the reforms to bring down the unfunded liability in both areas will begin occurring 30 years from now.

Here is where we are stuck. Here is what brings us to a Call of the House at 4:00 a.m. We believe that 30 years from now when the life expectancy of an individual is likely to be 85 to 90 years, we do not think it is unreasonable to work to the age of 62 if you are a regular employee and 55 if you are a police officer or a firefighter. That is sticking point one. The IRS is adopting rules that will prohibit years of service and require a minimum-retirement age. That is likely to happen in the near future, and we are bound up at 4:00 a.m. on that issue.

The next issue is the amount of time you work to receive full benefits in a very generous retirement program. It is not unreasonable to ask someone to work 32 years to fully vest in a generous retirement program. The bill before us states 30 years.

The final issue is about doing the math. There is not anyone who will tell you that we will make significant reforms in bringing down the unfunded liability for PEBS unless we do something to eliminate or to scale back the benefit that our retirees get in this State, which is to subsidize PEBS after retirement. This is a benefit that is offered by no other State. We understand the difficulty of someone who retires who has a gap between retirement and Medicare eligibility. Our proposal is that when they reach Medicare eligibility, that subsidy will discontinue. Those are the issues.

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

I have heard too much about "my side, your side; we are not going here, and you are not going there." This is one State with one goal. We have to fund education. We have to fund a budget. We need to get it done in the next 35 hours.

I would like to thank my colleague from Clark District 12 in acknowledging that state families are taking a pounding. That is my family, but we know where we are. We know what the problems are, and we are willing to take the pounding, but do not pound us and the future of this State at the same time. We cannot take both. I will tough this out because I can. But, do not ask me to sell other generations out to do it. You say it is a generous plan. Healthcare should be generous. If you do not pay the healthcare costs now, you will pay them in the future. The state employees do not get Social Security. My family is being penalized in the Social Security System because my husband is a state employee. Every year that he stays, he is losing benefits.

It is correct to talk about the new hires. We made a promise to the people who are our employees. We keep forgetting that we are the employer and they are the employees. I do not want to be the bad employer. I want to be the good employer. I want this job to be something that someone aspires to have, not takes it because it is the only thing left in the want ads. What we are about to do to the system, that is what we are going to turn these jobs into. They will be revolving jobs where someone is waiting to move on to something else. We will not have the good quality people that we have now, especially, in this Legislature who will stick here with us and do the job that needs to be done.

I am thankful that our leader has been open in the conversations we have had in our meetings about what is going on. Everyone understands how hard these changes are. We have reached that point. It is not your side and our side anymore. We have to make a decision, and we have to get this done. I hope that cooler minds prevail and that we all stop and think about what is going to happen to K-12 and higher education if we do not fulfill our obligation in the next 24 hours so that we can get this mission accomplished.

## UNFINISHED BUSINESS

### CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 162.

The following Assembly amendment was read:

Amendment No. 825.

"SUMMARY—Revises the date of the primary election and provisions governing voter registration by mail. (BDR 24-1001)"

"AN ACT relating to elections; revising the date of the primary election to the second Tuesday in June of each even-numbered year; revising the provisions governing the registration of voters by mail; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 6 of this bill changes the date of the primary election from the twelfth Tuesday before the general election of each even-numbered year to the second Tuesday in June of each even-numbered year. (NRS 293.175) To provide an example, if the provisions of this bill had been in effect in 2008, the primary election would have been held on June 10, 2008, instead of August 12, 2008.

As a result of changing the date of the primary election, sections 1-5, 7-12 and 14-17 of this bill amend various other dates relating to elections such as the date for filing declarations of candidacy.

~~[~~ ~~Section 13 of this bill provides that no primary election will be held for a particular office if: (1) only one major political party has candidates for that~~

~~office; and (2) that major political party has not more than twice the number of candidates to be elected to that office. This restriction on holding a primary election for a particular office applies regardless of whether there is a minor political candidate or an independent candidate for that particular office. (NRS 293.260)]~~

Section 16 of this bill changes the date on which a voter's registration or correction of registration information is deemed to be effective to the earlier of the date on which the application is postmarked or received by the county clerk. (NRS 293.5235)

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

Section 1. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in ~~[April]~~ *February* before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in ~~[April]~~ *February* preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

(a) Name of the political party;

(b) Names and addresses of its officers;

(c) Names of the members of its executive committee; and

(d) Name of the person who is authorized by the party to act as registered agent in this State.

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 2. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in ~~[June]~~ *April* must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in ~~[May]~~ *March* and not later than the fourth Tuesday in ~~[June.]~~ *April.* The petition may consist of more than one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and his name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in ~~[June]~~ *April* and on or before 5 p.m. on the first Tuesday after the primary election must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the first Tuesday after the primary election . ~~[of the year in which the general election is held.]~~ If a nominee dies after that time and date, his name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the first Tuesday after the primary election. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 3. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has

filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the second Friday in ~~[August]~~ *June* preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:

(a) A certificate of existence;

(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and

(c) Not earlier than the first Monday in ~~[May]~~ ~~*[April]*~~ *March* preceding the general election and not later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[May,]~~ ~~*[April,]*~~ *March,* a petition on behalf of the candidate with the Secretary of State containing not less than:

(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or

(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.

➥ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.

4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.

Sec. 4. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection 4, ~~*[6,]*~~ a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;

(b) Files *or will file* a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or

(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,

➥ must file with the Secretary of State a list of its candidates for partisan office ~~*[.*~~

~~*2. The list of candidates for partisan office required pursuant to subsection 1 must be filed with the Secretary of State:*~~

~~*(a) If the minor political party is described in paragraph (a) or (b) of subsection 1, not earlier than the first Monday in March preceding the election nor later than 5 p.m. on the first Friday after the first Monday in March. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in March.*~~

~~*(b) If the minor political party is described in paragraph (c) of subsection 1,]*~~ not earlier than the first Monday in ~~[May]~~ ~~*[April]*~~ *March* preceding the election nor later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[May.]~~ ~~*[April. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in April.*~~

~~*3.]*~~ *March.* The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. The list may be amended not later than 5 p.m. on the second Friday after the first Monday in ~~[May.]~~ *March.*

2. ~~*[4.]*~~ The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.

3. ~~*[5.]*~~ Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State nor later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[May.]~~ ~~*[:*~~

~~*(a) If the list is filed pursuant to paragraph (a) of subsection 2, March.*~~

~~*(b) If the list is filed pursuant to paragraph (b) of subsection 2, April.]*~~ *March.*

4. ~~*[6.]*~~ A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715

must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 5. NRS 293.174 is hereby amended to read as follows:

293.174 1. If the qualification of a minor political party is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in ~~[August.]~~ *June.* Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in ~~[August.]~~ *June.* A challenge pursuant to this subsection must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[May.]~~ ~~*[April.]*~~ *March.* Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[May.]~~ ~~*[April.]*~~ *March.* A challenge pursuant to this subsection must be filed with:

(a) The First Judicial District Court; or

(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.

Sec. 6. NRS 293.175 is hereby amended to read as follows:

293.175 1. The primary election must be held on the ~~[12th Tuesday before the general election]~~ *second Tuesday* in *June of* each even-numbered year.

2. Candidates for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election.

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply to:

(a) Special elections to fill vacancies.

(b) The nomination of the officers of incorporated cities.

(c) The nomination of district officers whose nomination is otherwise provided for by statute.

Sec. 7. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in ~~[May]~~ *March* of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in ~~[May.]~~ *March.*

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada
County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...
.....

Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada
County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……, in the City or Town of ……., County of ……, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering

upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 8. NRS 293.180 is hereby amended to read as follows:

293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:

(a) Their major political party's nomination for any partisan elective office, or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in ~~[April]~~ *February* of the year in which the election is to be held nor later than 5 p.m. on the first Friday in ~~[May;]~~ *March;* or

(b) Nomination for a judicial office, not earlier than the first Monday in December of the year immediately preceding the year in which the election is to be held nor later than 5 p.m. on the first Friday in January of the year in which the election is to be held.

2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he is a candidate in the primary election in like manner as if he had filed a declaration of candidacy.

3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

Sec. 9. NRS 293.200 is hereby amended to read as follows:

293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:

(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 25 working days before the last day to file the petition pursuant to subsection 4.

(b) Either of the following:

(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:

(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;

(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or

(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.

(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office, or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.

2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or

municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county where he is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than the first Monday in ~~[~~May~~]~~ ~~*[April]*~~ *March* preceding the general election and not later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ *March.*

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.

7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ *March.* Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ *March.*

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in ~~[~~May~~]~~ ~~*[April]*~~ *March* of the year in which the election is held nor later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ *March.*

Sec. 10. NRS 293.205 is hereby amended to read as follows:

293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in ~~[~~May~~]~~ *March* of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.

Sec. 11. NRS 293.206 is hereby amended to read as follows:

293.206 1. On or before the last day in ~~[May]~~ *March* of every even-numbered year, the county clerk shall provide the Secretary of State and the Director of the Legislative Counsel Bureau with a copy or electronic file of a map showing the boundaries of all election precincts in the county.

2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, he must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and he shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, he shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.

4. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 12. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in ~~[May]~~ *March* of any year whose last digit is 6 and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

(a) Ordered by a court of competent jurisdiction;

(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U.S.C. §§ 1971 and 1973 et seq., and any amendments thereto;

(c) Required to comply with subsection 2 of NRS 293.205;

(d) Required by the incorporation of a new city; or

(e) Required by the creation of or change in the boundaries of a special district.

➥ As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 13. ~~[NRS 293.260 is hereby amended to read as follows:~~

~~293.260 1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.~~

~~2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.~~

~~3. [If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.~~

~~4.] If only one major political party has candidates for a particular office :[and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:]~~

~~(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his name must be placed on the ballot for the general election.~~

~~(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.~~

~~[5.] 4. Where no more than the number of candidates to be elected have filed for nomination for:~~

~~(a) Any partisan office or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;~~

~~(b) Any nonpartisan office, other than the office of justice of the Supreme Court or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, he must be declared elected to the office and his name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his name must be placed on the ballot for the general election; and~~

~~(c) The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.~~

~~[6.] 5. If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.]~~ *(Deleted by amendment.)*

Sec. 14. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[June,]~~ *April,* his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, he shall be deemed nominated and ~~[there shall be a]~~ *the* vacancy in the nomination ~~[that]~~ must be filled as provided in NRS 293.165

or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the first Tuesday after the primary election, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 15. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Except as otherwise provided in NRS 295.121 or 295.217, arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in ~~[May]~~ *March* preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

4. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 16. NRS 293.5235 is hereby amended to read as follows:

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is

personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➥ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register ~~[.~~

~~(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or~~

~~(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application, on the date the application is received by the county clerk.]~~ *on the date the application is postmarked or received by the county clerk, whichever is earlier.*

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this State.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 17. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than ~~[June]~~ *April* 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Senator Woodhouse moved that the Senate concur in the Assembly amendment to Senate Bill No. 162.

Remarks by Senator Woodhouse.

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

This amendment sets the first two weeks in March as the period for filing declarations of candidacy for nonjudicial offices. The nonpartisan and the Independent parties will have the same filing date as the partisan candidates. Accordingly, the amendment also strikes section 13 from the bill as its provisions no longer are necessary.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 276.

The following Assembly amendment was read:

Amendment No. 623.

"SUMMARY—Makes various changes concerning land sales agreements and compliance with the real property transfer tax. (BDR 32-724)"

"AN ACT relating to taxation; clarifying the requirements for imposition and collection of the real property transfer tax on certain land sale installment contracts; requiring that such instruments be recorded; imposing conditions on the approval and recording of certain documents relating to the division of

land; establishing certain actions relating to land sale contracts; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:"

Existing law imposes a tax on each deed by which lands, tenements or other realty are assigned, transferred or otherwise conveyed. (NRS 375.020) Under the existing law, payment of the transfer tax can be avoided if the instrument memorializing the transfer is not recorded pursuant to NRS 111.315.

Sections 2-9 of this bill require payment of the real property transfer tax on transfers of property evidenced by land sale installment contracts. Additionally, section 8 prohibits a county recorder from accepting for recordation ~~[certain documents relating to the division of land without proof of payment of the tax.]~~ *any deed, conveyance or land sale installment contract if certain taxes have not been paid.*

Sections 10-13 of this bill require submission of an affidavit regarding payment of the tax and compliance with certain requirements for land sale installment contracts as a condition to local governmental approval of certain documents relating to the division of land.

Section 14 of this bill makes the failure to make certain disclosures, record a land sale installment contract or pay the tax on such a contract a deceptive trade practice.

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

Section 1. NRS 375.010 is hereby amended to read as follows:

375.010 1. The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

(a) "Buyer" means a person or other legal entity acquiring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantee or other transferee of real property.

(b) "Deed" means every instrument in writing, whatever its form and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, except that the term does not include:

(1) A lease for any term of years;

(2) An easement;

(3) A deed of trust or common-law mortgage instrument that encumbers real property;

(4) A last will and testament;

(5) A distribution of the separate property of a decedent pursuant to chapter 134 of NRS;

(6) An affidavit of a surviving tenant;

(7) A conveyance of a right-of-way; or

(8) A conveyance of an interest in gas, oil or minerals.

(c) "Escrow" means the delivery of a deed by the seller into the hands of a third person, including an attorney, title company, real estate broker or other person engaged in the business of administering escrows for compensation, to be held by the third person until the happening of a contingency or performance of a condition, and then to be delivered by the third person to the buyer.

(d) *"Land sale installment contract" means any agreement between a seller and a buyer of real property located in this State pursuant to which the buyer gives and the seller receives the consideration paid in multiple payments during a specified period and the seller retains title to the real property that is the subject of the agreement until the full contract price is paid, at which time title to the real property is transferred by an instrument in writing from the seller to the buyer. The term does not include a deed of trust or common-law mortgage instrument that encumbers real property or an option to purchase real property.*

*(e)* "Seller" means a person or other legal entity transferring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantor or other transferor of real property.

~~[(e)]~~ *(f)* "Value" means:

(1) In the case of any deed which is not a gift, *or a land sale installment contract,* the amount of the full purchase price paid or to be paid for the real property.

(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated fair market value of the property.

2. As used in paragraph (e) of subsection 1, "estimated fair market value" means the estimated price the real property would bring on the open market in a sale between a willing buyer and a willing seller. Such price may be derived from the assessor's taxable value or the prior purchase price, if the prior purchase was within the 5 years immediately preceding the date of valuation, whichever is higher.

Sec. 2. NRS 375.020 is hereby amended to read as follows:

375.020 1. A tax, at the rate of:

(a) In a county whose population is 400,000 or more, $1.25; and

(b) In a county whose population is less than 400,000, 65 cents,

➥ for each $500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract,* if the consideration or value of the interest or property conveyed exceeds $100.

2. The amount of tax must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

Sec. 3. NRS 375.023 is hereby amended to read as follows:

375.023 1. In addition to all other taxes imposed on transfers of real property, a tax, at the rate of $1.30 on each $500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or

other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract*, if the consideration or value of the interest or property conveyed exceeds $100.

2. The amount of the tax must be computed on the basis of the value of the transferred property as declared pursuant to NRS 375.060.

3. The county recorder of each county shall collect the tax in the manner provided in NRS 375.030, except that the amount collected must be transmitted to the State Controller for deposit in the State General Fund within 30 days after the end of the calendar quarter during which the tax was collected.

4. The county recorder of each county may deduct and withhold from the taxes collected 1 percent of those taxes to reimburse the county for the cost of collecting the tax.

Sec. 4. NRS 375.026 is hereby amended to read as follows:

375.026 1. In addition to all other taxes imposed on transfers of real property, the board of county commissioners of a county whose population is less than 400,000 may impose a tax at the rate of up to 5 cents for each $500 of value, or fraction thereof, on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract,* if the consideration or value of the interest or property conveyed exceeds $100.

2. The amount of the tax must be computed on the basis of the value of the ~~[transferred]~~ real property *that is the subject of the transfer or land sale installment contract* as declared pursuant to NRS 375.060.

3. The county recorder shall collect the tax in the manner provided in NRS 375.030, except that he shall transmit all the proceeds from the tax imposed pursuant to this section to the State Treasurer for use in the Plant Industry Program as required by NRS 561.355.

Sec. 5. NRS 375.030 is hereby amended to read as follows:

375.030 1. If any deed evidencing a transfer of title *or land sale installment contract* subject to the tax imposed by NRS 375.020 and 375.023 and, if applicable, NRS 375.026 is offered for recordation, the county recorder shall compute the amount of the tax due and shall collect that amount before acceptance of the deed for recordation.

2. The buyer and seller are jointly and severally liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 and any penalties and interest imposed pursuant to subsection 3. The escrow holder is not liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 or any penalties or interest imposed pursuant to subsection 3.

3. If , after recordation of the deed ~~[,]~~ *or land sale installment contract,* the county recorder disallows an exemption that was claimed at the time the deed was recorded or through audit or otherwise determines that an additional amount of tax is due, the county recorder shall promptly notify the person who requested the recording of the deed *or land sale installment contract* and the buyer and seller of the additional amount of tax due. If the

additional amount of tax is not paid within 30 days after the date the buyer and seller are notified, the county recorder shall impose a penalty of 10 percent of the additional amount due in addition to interest at the rate of 1 percent per month, or portion thereof, of the additional amount due calculated from the date of the original recordation of the deed *or land sale installment contract* on which the additional amount is due through the date on which the additional amount due, penalty and interest are paid to the county recorder.

4. This section does not prohibit a buyer and seller from agreeing by contract or otherwise that one party or the other will be responsible for the payment of the tax due pursuant to this chapter, but such an agreement does not affect the ability of the county recorder to collect the tax and any penalties and interest from either the buyer or the seller.

Sec. 6. NRS 375.060 is hereby amended to read as follows:

375.060 1. Each deed evidencing a transfer of title of real property *or land sale installment contract* that is presented for recordation to the county recorder must be accompanied by a declaration of value made on a form prescribed by the Nevada Tax Commission.

2. A county recorder shall not charge or collect any fees for recording the declaration of value required pursuant to this section.

Sec. 7. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property ~~[.]~~ *, including, without limitation, a transfer by an instrument in writing pursuant to the terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.*

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

➥ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 8. NRS 375.100 is hereby amended to read as follows:

375.100 ~~*[1.]*~~ The county recorder shall refuse to record any deed , ~~[or]~~ conveyance *or land sale installment contract* upon which a tax is imposed by this chapter if the tax has not been paid and is not subject to liability for refusing to record a deed , ~~[or]~~ conveyance *or land sale installment contract* for which a tax imposed pursuant to this chapter has not been paid.

~~*[ 2. The county recorder shall not accept for recording any parcel map, map of division into large parcels, subdivision plat, map of reversion of any division of land to acreage or document adjusting a boundary line of any property unless the county recorder has proof of the payment of any applicable tax due pursuant to this chapter.]*~~

Sec. 9. NRS 375.110 is hereby amended to read as follows:

375.110 Any person who willfully falsely declares the value of transferred real property *or land sale installment contract* pursuant to NRS 375.060 is guilty of a misdemeanor and shall pay the amount of any additional tax required on account of the falsification.

Sec. 10. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive; ~~[and]~~

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands ~~[.]~~ *; and*

*(k) The submission by the subdivider of an affidavit stating that the subdivider ~~[has made]~~ will make provision for payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~[.]~~ , by the subdivider or any successor in interest.*

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. *The governing body or planning commission shall not approve the tentative map unless the subdivider has submitted an affidavit stating that the subdivider ~~[has made]~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~[.]~~ , by the subdivider or any successor in interest.* Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 11. NRS 278.461 is hereby amended to read as follows:

278.461 1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:

(a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and

(b) Pay a filing fee in an amount determined by the governing body,

➥ unless those requirements are waived or the provisions of NRS 278.471 to 278.4725, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid ~~[.]~~ *, and by the affidavit of the person who proposes to divide the land stating that the person ~~[has made]~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~[.]~~ , by the person who proposes to divide the land or any successor in interest.*

2. In addition to any other requirement set forth in this section, a person who is required to prepare a parcel map pursuant to subsection 1 shall provide a copy of the parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:

(a) Any parcel included in the parcel map:

(1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring approval by him of the parcel map; and

(2) Will be served by a domestic well; and

(b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.

3. If the parcel map is submitted to the clerk of the governing body, he shall submit the parcel map to the governing body at its next regular meeting.

4. A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.

5. A parcel map is not required when the division is for the express purpose of:

(a) The creation or realignment of a public right-of-way by a public agency.

(b) The creation or realignment of an easement.

(c) An adjustment of the boundary line between two abutting parcels or the transfer of land between two owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.

(d) The purchase, transfer or development of space within an apartment building or an industrial or commercial building.

(e) Carrying out an order of any court or dividing land as a result of an operation of law.

6. A parcel map is not required for any of the following transactions involving land:

(a) The creation of a lien, mortgage, deed of trust or any other security instrument.

(b) The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.

(c) Conveying an interest in oil, gas, minerals or building materials, which is severed from the surface ownership of real property.

(d) Conveying an interest in land acquired by the Department of Transportation pursuant to chapter 408 of NRS.

(e) Filing a certificate of amendment pursuant to NRS 278.473.

7. When two or more separate lots, parcels, sites, units or plots of land are purchased, they remain separate for the purposes of this section and NRS 278.468, 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or conveyed they are exempt from the provisions of NRS 278.010 to 278.630, inclusive, until further divided.

8. Unless a method of dividing land is adopted for the purpose or would have the effect of evading this chapter, the provisions for the division of land by a parcel map do not apply to a transaction exempted by paragraph (c) of subsection 1 of NRS 278.320.

9. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 12. NRS 278.464 is hereby amended to read as follows:

278.464 1. Except as otherwise provided in subsection 2, if there is a planning commission, it shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application a parcel map, recommend approval, conditional approval or disapproval of the map in a written report. The planning commission shall submit the parcel map and the written report to the governing body.

2. If the governing body has authorized the planning commission to take final action on a parcel map, the planning commission shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application the parcel map, approve, conditionally approve or disapprove the map. The planning commission shall file its written decision with the governing body. Unless the time is extended by mutual agreement, if the planning commission is authorized to take final action and it fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after acceptance of the parcel map as a complete application by the governing body pursuant to subsection 1 or pursuant to subsection 3 of NRS 278.461, review and approve, conditionally approve or disapprove the parcel map. Unless the time is extended by mutual agreement, if the governing body, the director of planning or other authorized person or agency fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

4. *The planning commission and the governing body or director of planning or other authorized person or agency shall not approve the parcel map unless the person proposing to divide the land has submitted an affidavit stating that the person* ~~*[has made]*~~ *will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable* ~~*[.]*~~ *, by the person proposing to divide the land or any successor in interest.*

5. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the

time is extended by mutual agreement, a request for a waiver must be acted upon:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after the date of the request for the waiver or, in the absence of action, the waiver shall be deemed approved.

~~[5.]~~ *6.* A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.

~~[6.]~~ *7.* An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

~~[7.]~~ *8.* If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chairman of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing body or planning commission determined that a public street, easement or utility easement which will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

Sec. 13. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; ~~[and]~~

(b) *Submit an affidavit stating that the person* ~~*[has made]*~~ *will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable* ~~*[;]*~~ *, by the person who proposes to make a division of land or any successor in interest; and*

*(c)* Pay a filing fee of no more than $750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

*4. The planning commission and the governing body or its authorized representative shall not approve the tentative map unless the person proposing to divide the land has submitted an affidavit stating that the person ~~[has made]~~ will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable ~~[.]~~ , by the person proposing to divide the land or any successor in interest.*

Sec. 14. NRS 598.0923 is hereby amended to read as follows:

598.0923 A person engages in a "deceptive trade practice" when in the course of his business or occupation he knowingly:

1. Conducts the business or occupation without all required state, county or city licenses.

2. Fails to disclose a material fact in connection with the sale or lease of goods or services.

3. Violates a state or federal statute or regulation relating to the sale or lease of goods or services.

4. Uses coercion, duress or intimidation in a transaction.

*5. As the seller in a land sale installment contract, fails to:*

*(a) Disclose in writing to the buyer:*

*(1) Any encumbrance or other legal interest in the real property subject to such contract; or*

*(2) Any condition known to the seller that would affect the buyer's use of such property.*

*(b) Disclose the nature and extent of legal access to the real property subject to such agreement.*

*(c) Record the land sale installment contract pursuant to NRS 111.315 within 30 calendar days after the date upon which the seller accepts the first payment from the buyer under such a contract.*

*(d) Pay the tax imposed on the land sale installment contract pursuant to chapter 375 of NRS.*

*(e) Include terms in the land sale installment contract providing rights and protections to the buyer that are substantially the same as those under a foreclosure pursuant to chapter 40 of NRS.*

➥ *As used in this subsection, "land sale installment contract" has the meaning ascribed to it in paragraph (d) of subsection 1 of NRS 375.010.*

Sec. 15. This act becomes effective on July 1, 2009.

Senator Coffin moved that the Senate concur in the Assembly amendment to Senate Bill No. 276.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 17.

The following Assembly amendment was read:

Amendment No. 746.

"SUMMARY—Revises provisions governing health care records. (BDR 54-607)"

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

Legislative Counsel's Digest:

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

Section 2 of this bill *:* ~~[increases from 5 years to 7 years the period of time that a provider of health care must retain the health care records of patients who are 25 years of age or older and requires the provider to notify a patient before destroying his health care records upon expiration of the period. (NRS 629.051) Section 2 also:]~~ (1) requires that certain disclosures regarding destruction of records be provided to patients; (2) prohibits the destruction of health care records for a person who is less than ~~[25]~~ *23* years of age ~~[,]~~ *until the person attains the age of 23 years;* and (3) requires the State Board of Health to adopt regulations relating to the required disclosures.

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

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

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

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

*(a) Pursuant to the provisions of subsection 7 of NRS 629.051 ~~[, the]~~ :*

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

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

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

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

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

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

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

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

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

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

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

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

*8. The State Board of Health shall adopt:*

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

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

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

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

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

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

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

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

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

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

Senator Mathews moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 17.

Motion carried.

Bill ordered transmitted to the Assembly.

## UNFINISHED BUSINESS

### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 6, 9, 62, 72, 125, 127, 151, 185, 193, 219, 229, 238, 244, 247, 254, 283, 287, 288, 298, 302, 319, 325; Assembly Concurrent Resolution No. 33.

## REMARKS FROM THE FLOOR

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

Since this Legislative Session began, we have been working under trying conditions. This has been a difficult process to develop a budget to provide for essential services, with serious revenue shortfalls and many of us in Leadership and in the Caucuses have been working

together, in what is now known as the Core Group to try to work out differences and to try to come to decisions that will address everyone's concerns, including the appropriate funding for the budget that we need to provide for the State to operate during the next biennium.

Everyone involved in the process has had shared differences of opinions. We have had some serious confrontations, though, always within the demeanor that is necessary if we are going to succeed during this Session. Through negotiations on the part of all of us involved, the tax plan was presented last evening to the Committee of the Whole in this House.

A few days ago, I received a call from a member of my law firm. As everyone in this body knows, for I have declared it a number of times, I am a shareholder in the law firm of Jones Vargas. One of my attorney members called and said "there is going to be an ethics charge filed against you if you vote for the budget because three of our attorneys represent clients as lobbyists in the Legislature."

I do not take potential threats about complaints being filed in the Ethics Commission lightly. I discussed this with our Legislative Counsel, Brenda Erdoes, and asked her to provide me with an opinion on the ability of me to vote on a tax plan. On May 19, 2009, she provided me with an opinion letter which I ask to be included in the Journal.

In the opinion, Mrs. Erdoes discusses Senate Standing Rule 23 which we adopted this Session. It is indicated that under Rule 23 a determination of whether a Senator has a conflict of interest is a two-step process. A Senator must, first, determine if, with respect to the matter, he accepted a gift or loan, which I did not; if he has a private, economic interest, which I do not have; and if he has a commitment to a member of his household or immediate family. The only commitment I have is to my wife, to do as she tells me. She has not given me any advice at all on voting on the tax package.

If a Senator determines he has any such interest, he must determine whether the independence of judgment of a reasonable person in his situation would be materially affected.

I think we all know what the law says regarding this and the issue is whether an interest would "materially affect the independence of judgment of a reasonable person" in this kind of a situation on a case-to-case basis. She states, "If the proposed tax legislation would not affect clients of Jones Vargas who are or would become taxpayers subject to the proposed tax legislation any differently than any other taxpayers who are or would be subject to the tax legislation, it is the opinion of this office that the independence of judgment of a reasonable person in your situation would not be materially affected by your economic interest." That is comforting and it comports with a strong public policy against abstention except in clear cases of direct conflict of interest. Those of us who have been here long enough know that that is a provision in the Mason's Manual of Legislative Procedure. We should not be looking for excuses not to vote.

Mrs. Erdoes continues, "A different answer is required, however, if one of the members of your firm was requested to lobby on the tax legislation." As this body is aware, when any member of my law firm has testified on a particular bill or matter, if I know about it and I try to make that effort, I disclose that and abstain. In this case, the opinion says, "Although, NRS 218.942 makes it unlawful for a lobbyist's compensation or reimbursement to be contingent upon the outcome of the lobbyist's efforts, it is reasonable to conclude that lobbying by a member of your firm on the tax legislation would affect the independence of judgment of a reasonable person." The conclusion is, "If a member of your firm lobbied on the tax legislation, it is the opinion of this office that you would be required under Rule No. 23 to abstain from voting on the legislation because the independence of judgment of a reasonable person in your situation would be materially affected."

As a result of the threat being brought to my attention, I asked members of my firm if any of them had been involved in these activities. I have three members of the firm who represent varying interests. One represents some banks; one represents a mining company and the Southern Nevada Homebuilders; and another has a gaming client. In each case, none of them has, to their knowledge, specifically involved themselves in lobbying for tax legislation. None has lobbied on this recent bill, which was just recently introduced.

Last Friday, at the specific urging of an aide to the Speaker of the Assembly, one member was asked to appear at the Joint Taxation Committee that heard suggestions for increased taxes. He came to the table and indicated that as a representative of the clients he had, he suggested

that any tax should be a broad-based tax. He did not reference otherwise. Having done that, and based upon her opinion, that got my attention.

Earlier today, I was approached by a member of the press who said, "They say that you have an opinion letter from the Legislative Counsel that says you cannot vote on the tax package."

I asked who was "they?" He told me "the anti-tax people." I asked who are the anti-tax people? He said a man named Robert Uitoven that said I should not vote on this measure and indicated that he is a "supporter" of mine. With supporters like that, I do not need any opponents. He said, I should remain consistent with my previously disclosed conflicts and avoid voting on "the massive impending tax increase." I support the tax package. I believe we have done an incredible job under difficult circumstances in funding a budget that contains funding necessary for this State to survive during the next two years until the Legislature reconvenes in 2011.

I believe that we have attempted to make any tax increases as easy to accept as possible. I realize that is not easy to accept any kind of a tax increase, particularly, when our citizens and businesses are suffering under the economic downturn. That is one of the reasons I indicated that I would not support any tax increase unless it was for this biennium only and on existing taxes.

The basis for my requirement for supporting it would be that the tax components that are increased be sunset and that we revisit the situation at the next Session with, hopefully, better fiscal numbers.

This is a full disclosure of this situation. This will involve problems, not only for people like me, but also for others in this legislative Body. If this is a device to try to whittle down the votes, that is fair game. I came here in 1972. This was an enjoyable process, then. We had little partisanship. We had little sectionalism and we did not have the "Sword of Damocles" ethics violations hanging over our heads. I am the culprit, I must admit. I created the Ethics Commission. I was the prime sponsor because public officials had no place to turn to get an opinion on whether or not something was a potential conflict. I thought we needed somewhere where public officials, not only legislators, could go to get an opinion. Over the years, like anything that is created, it gets many bells and whistles hung on it. Not to be critical, but it has become a minefield with the requirements we have put into the ethics laws not only for those of us who serve in this Body, but for those who serve in a public capacity, elected or appointed. Maybe we should sit back and review this a little and decide whether or not we want ordinary people who have some interests outside of being in the Legislature or being in the County Commission or holding an appointed office somewhere who are trying to do their duty and do it sincerely without being threatened every time they turn around that they are violating ethics.

I am irritated by this type of activity. I think we all have an idea of whether or not we are in violation of what we think is appropriate conduct, whatever, our position. To be threatened by people who say if you vote this way, we are going to turn you into the Ethics Commission, I think, goes too far.

I will follow the opinion and I will abstain. I will do so reluctantly because my first obligation is to the oath I took and to do what is right for this State, not for any particular special-interest group or group of people and that includes my own party. Thank you.

May 19, 2009

Senator William J. Raggio
P.O. Box 281
Reno, NV 89504-0281

Dear Senator Raggio:

You have asked this office whether you are prohibited from voting on any legislation relating to taxes if any clients of Jones Vargas are taxpayers or would be taxpayers depending on the taxes in the legislation.

Senate Standing Rule No. 23 governs the rules relating to voting by Senators. First, it must be determined whether a Senator has a conflict of interest. The standard stated in subsection 8 of Rule No. 23 for determining whether a Senator has a conflict of interest is as follows:

> In determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by:

(a) His acceptance of a gift or loan;
(b) His private economic interest; or
(c) His commitment to a member of his household or his immediate family.

Thus, under Rule No. 23, the determination of whether a Senator has a conflict of interest is a two-step process. First, a Senator must determine if, with respect to the matter: (1) he accepted a gift or loan; (2) he has a private economic interest; or (3) he has a commitment to a member of his household or immediate family. Second, if a Senator determines that he has such an interest, he must determine whether the independence of judgment of a reasonable person in his situation would be materially affected by the interest. With respect to matters that relate to clients of Jones Vargas, in which you are a shareholder, you have a private economic interest. However, whether such an interest would materially affect the independence of judgment of a reasonable person in your situation on a matter must be made on a case-by-case basis, depending on the circumstances. If the proposed tax legislation would not affect clients of Jones Vargas who are or would become taxpayers subject to the proposed tax legislation any differently than any other taxpayers who are or would be subject to the tax legislation, it is the opinion of this office that the independence of judgment of a reasonable person in your situation would not be materially affected by your economic interest, and therefore that you do not have a conflict of interest for purposes of Rule No. 23 and would not be required to abstain from voting on the legislation.

This interpretation comports with the strong public policy against abstention except in clear cases of a direct conflict of interest. Section 522 of Mason's Manual of Legislative Procedure, which governs legislative procedure in the Senate and supplements the Standing Rules, states that "[t]he right of members to represent their constituencies is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal." This policy was recognized by the Commission on Ethics in In re Woodbury, CEO 99-56 (Dec. 22, 1999). In that opinion, the Commission stated that:

> Abstention in all such cases would be a safe harbor for public officers and employees. However, the public (and an elected official's constituents) have an interest in matters which come before such officers and employees. Abstention deprives the public and that official's constituents of a voice in governmental affairs. And, public officers and employees should have the opportunity to perform the duties for which they were elected or appointed, except where private commitments would *materially* affect one's independence of judgment.

A different answer is required, however, if one of the members of your firm was requested to lobby on the tax legislation. Although NRS 218.942 makes it unlawful for a lobbyist's compensation or reimbursement to be contingent upon the outcome of the lobbyist's efforts, it is reasonable to conclude that lobbying by a member of your firm on the tax legislation would affect the independence of judgment of a reasonable person in your situation concerning the legislation. This situation is analogous to the facts in an opinion recently issued by the Commission on Ethics. In that opinion, a member of a state licensing commission who was an attorney in his private capacity asked for an advisory opinion, in part, on the issue of whether other members of his law firm could represent licensees before the state licensing commission. In re Public Officer, CEO 08-08A (Dec. 2, 2008). The Commission on Ethics opined that:

> Because there is no doubt that some benefit would flow from the law firm's representations to Public Officer whenever a member of Public Officer's law firm comes before the state commission in a representative capacity on a matter for action, Public Officer's actions would reasonably be affected by his pecuniary interest and his commitment in a private capacity to the interest of his employer. Therefore, in such case, Public Officer's disclosure would be required. Additionally, Public Officer would need to abstain from acting on the matter.

Id. at 4. Thus, if a member of your firm lobbied on the tax legislation, it is the opinion of this office that you would be required under Rule No. 23 to abstain from voting on the legislation because the independence of judgment of a reasonable person in your situation would be materially affected in those circumstances.

In conclusion, it is the opinion of this office that unless one of the members of your firm lobbied on the tax legislation, you would not be required to abstain from voting under Senate Standing Rule No. 23 on legislation relating to taxes because the interest of the clients of Jones Vargas who are taxpayers or would be taxpayers subject to the proposed tax legislation is not greater than the interests of all persons in this State who are or would be subject to the tax legislation.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,

Brenda J. Erdoes
Legislative Counsel

By_____
Eileen O'Grady
Chief Deputy Legislative Counsel

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to the following students from the Roy Gomm Elementary School: Christopher Cooke, Rafael Devia, Dominic Driscoll, Morgan Eisele, Gasrelle Etem, Michael Heydon, Jonathan Hickox-Young, Leanne Kent, Madeline Kreutzian, Sheridan Manfredi, Matthew McKean, Lukas McKenzie, Jacquelyn Nader, Max O'Connor, Brian Peck, Haley Ries, Sarah Scheiber, Logan Smith, Matthew Smith, Emly Sutton, Courtney Van Havel, Tasnia Alam, Brianna Beesley, Emerson Casey, Rebecca Coleman, Ashlee Dreher, Rose Fabian, Darius Fiore, Gillian Geis, Maria Ingersoll, Hunter Lockwood, Emily Low, Ryan Mellison, Tyler Nordman, Sung Park, Victoria Patriana, Christopher Ristine, Lauren Robbers, Sonya Savoy, Gino Zamboni, Paul Astles, Madison Berry, Ryan Boucher, Harley Brackney, Nicole Flangas, Max Hall, Jacob Hoberg, Kaelynn Jensen, Emma Keenan, Roger Koci, Frank Lee, Trevor Livingston, Mallory McGwire, Jack Pfau, Ashley Pikero, Ian Rinehart, Mary Ristine, Elsa Ross, Jessica Rosser, Alexandra Scott, Sarah Sutton and Jacklyn Wolfe.

Senator Horsford moved that the Senate recess until 9 a.m.
Motion carried.

Senate in recess at 3:55 a.m.

SENATE IN SESSION

At 10:33 a.m.
Senator Woodhouse presiding.

Senator Care moved that the Senate adjourn until Thursday, May 21, 2009, at 1 p.m.

Motion carried.

Senate adjourned at 10:34 a.m.

Approved: SENATOR JOYCE WOODHOUSE
*Chair, Legislative Operations and Elections*

Attest: CLAIRE J. CLIFT
*Secretary of the Senate*